



ASIC

Australian Securities & Investments Commission



ASX

AUSTRALIAN SECURITIES EXCHANGE

## MEDIA RELEASE

29 February 2008

### Disclosure Guidance for Listed Entities

A key priority of both the Australian Securities Exchange (ASX) and the Australian Securities and Investments Commission (ASIC), as regulators of the market, is ensuring the market is fully informed in a timely manner.

This is achieved by working with listed entities to ensure they are aware of, and in compliance with, their continuous disclosure obligations, particularly in the current environment of high market volatility.

ASX and ASIC have cooperated on the release of two Companies Updates to assist companies meet their disclosure obligations.

- Companies Update 02/08 provides guidance on the disclosure of material information relating to the financing arrangements of listed entities and the margin loans held by company directors.
- Companies Update 01/08 provides guidance on the disclosure obligations of listed entities when they seek a trading halt or suspension of their securities.

Both Companies Updates are attached to this release and available on the ASX website: [www.asx.com.au](http://www.asx.com.au)

ASX and ASIC will work together to monitor disclosures and will take enforcement action where necessary to ensure the market is fully informed.

Directors have a duty under the Corporations Act to disclose to the company material personal interests on a matter relating to the company. Accordingly, ASIC would expect all directors to have provided the company with all relevant information when a margin loan is entered into over securities in the company.

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## Important information for ASX Listed Entities

### Related Links

[Companies Homepage](#)

[Chapter 3 - Listing Rules](#)  
(PDF 204 KB)

[Guidance Note 8](#) (PDF 107  
KB)

### **Listing Rule 3.1**

ASX is concerned to ensure that all listed entities are aware of, and in compliance with, their continuous disclosure obligations in the current environment of high market volatility. This is particularly so with respect to the disclosure of material information relating to the:

- financing arrangements of entities; and
- existence and terms of any finance arrangements that may be in place in relation to directors' shareholdings (for example: margin loans).

[Listing rule 3.1](#) (PDF 204 KB) requires an entity to disclose immediately to ASX any information that it is aware of concerning itself that a reasonable person would expect to have a material effect on the price or value of its securities. The exceptions to this requirement are set out in [listing rule 3.1A](#) (PDF 204 KB).

The expectations of the reasonable person evolve over time and ASX is committed to administering [listing rule 3.1](#) (PDF 204 KB) in a way that reflects these evolving standards.

### **Finance Arrangements**

Where a listed entity has in place or enters into new material financing arrangements or alters existing material financing arrangements which include terms that may be activated upon the occurrence of certain events (particularly those beyond the control of the entity, such as market events), disclosure may be required under [listing rule 3.1](#) (PDF 204 KB) at the time that any such term is activated or becomes likely to be activated. The disclosure required may include the nature and terms of the arrangements, the trigger event, and any other material information such as any impact that triggering of the term may have on the entity's relationship with its bankers, or financial position or financial performance. It may also be appropriate in some circumstances for the entity to request a trading halt if the

entity is unable to immediately release the information.

### **Margin Loans**

[Listing rules 3.19A and 3.19B](#) (PDF 204 KB) require an entity to disclose the notifiable interests of a director within five business days of the appointment or resignation of the director or of a change to the notifiable interests occurring.

Information about shareholders and their shareholdings can be material under [listing rule 3.1](#) (PDF 204 KB) and require immediate disclosure (see, for example, bullet point 11 in the note to [listing rule 3.1](#) (PDF 204 KB) which deals with information about the beneficial ownership of securities obtained under Part 6C.2 of the Corporations Act).

Where a director has entered into margin loan or similar funding arrangements for a material number of securities, ASX advises that [listing rule 3.1](#) (PDF 204 KB), in appropriate circumstances, may operate to require the entity to disclose the key terms of the arrangements, including the number of securities involved, the trigger points, the right of the lender to sell unilaterally and any other material details. Whether a margin loan arrangement is material under [listing rule 3.1](#) (PDF 204 KB) is a matter which the company must decide having regard to the nature of its operations and the particular circumstances of the company.

Attention is drawn to paragraphs 16 to 19 of [Guidance Note 8 - Continuous Disclosure](#) (PDF 221 KB) which discusses when an entity becomes aware of information.

[Listing rule 3.1B](#) (PDF 204 KB) applies where ASX considers that there is or is likely to be a false market, and in such circumstances an entity must disclose information necessary to correct or prevent a false market. This requirement may arise even though the entity is not aware of any information that would be required to be disclosed under [listing rule 3.1](#) (PDF 204 KB).

To help keep our Listed Entities informed of information and events ASX will be sending emails to the Company Secretary's Office from time to time. You are receiving this email because you have been identified as a key contact within the Company Secretary's Office at your organisation. If you would like to update your email address please do so via the Directors/Senior Management page on [ASX Online for Companies](#). Feel free to forward this email to any relevant parties within your organisation.



## Important information for ASX Listed Entities

### Related Links

[Companies Homepage](#)

[Chapter 3 - Listing Rules](#)  
(PDF 204 KB)

[Chapter 12 - Listing Rules](#)  
(PDF 86 KB)

[Chapter 17 - Listing Rules](#)  
(PDF 129 KB)

[Chapter 18 - Listing Rules](#)  
(PDF 85 KB)

[Guidance Note 16](#) (PDF 107 KB)

[Contact Details - Company Announcements](#)

### TRADING HALTS AND SUSPENSIONS

Keeping the market informed is a key priority of ASX. It is the obligation of every listed entity to keep the market informed, and this obligation continues when an entity has requested a trading halt or suspension from quotation of its securities.

The listing rules permit entities to request interruptions to trading in their securities. [Listing rule 17.1](#) enables ASX to grant a trading halt at the request of the entity, and [listing rule 17.2](#) enables ASX to suspend an entity's securities from quotation at the entity's request. Both rules state that ASX may decide not to grant the trading halt or suspension despite the request of the entity. (Trading halts and voluntary suspensions from quotation under either of these rules are to be distinguished from suspensions of securities imposed by ASX under [listing rule 17.3](#) without a request having been made by a listed entity).

[Listing rules 17.1 and 17.2](#) both state that ASX may require the request to be in writing. [Guidance Note 16 – Trading Halts](#) stipulates in relation to trading halts that the request must be confirmed in writing and must include the information required by the listing rules (paragraph 10), and that the request will in most cases be released to the market (paragraph 11).

ASX advises it will insist that requests for suspension under [listing rule 17.2](#), as well as requests for trading halts under [listing rule 17.1](#), be made in writing for release to the market. The information provided in the written request must include the matters set out in those listing rules, namely:

- reasons for the suspension or trading halt; ASX expects that the reasons provided would be more specific than "pending an announcement". By way of example, acceptable reasons may include a proposed acquisition/disposal, significant capital raising, merger discussion, and/or finalising accounts.
- how long the entity expects the suspension or trading halt (for trading halts less than two days);
- the event that the entity expects to happen that will end the suspension or halt in trading;
- a statement that the entity is not aware of any reason why its securities should not be suspended or halted; and
- any other information necessary to inform the market about the suspension, or other information that ASX asks for.

ASX notes that in some circumstances it may not be appropriate for ASX to suspend or halt trading in an entity's securities. ASX draws

listed entities' attention to paragraph 9 of [Guidance Note 16](#), where ASX notes that expectation of a takeover being made for the entity or acquisition of a substantial shareholding may be relevant in deciding whether to grant a trading halt or suspension, and paragraph 12 of [Guidance Note 16](#), which concerns the inappropriateness of an interruption in trading to facilitate the administrative or marketing convenience of an entity.

Where a listed entity is not able or willing to provide a written request to ASX for suspension of its securities, including the information required in [listing rule 17.2](#), ASX may consider whether the entity's securities should more appropriately be suspended, without the entity's request, by ASX under [listing rule 17.3](#).

[Listing rule 3.1](#) applies to entities while their securities are subject to a suspension or a trading halt, and if the entity becomes aware of information that would require disclosure under [listing rule 3.1](#) the entity must release that information immediately notwithstanding that the entity's securities are suspended or halted from trading ([listing rule 18.6](#)).

### **Back to Back Trading Halts**

ASX refers to paragraph 14 of the Guidance Note which encourages entities to consider a voluntary suspension where the entity cannot manage a disclosure issue within the two day trading halt period. ASX also refers to paragraph 15 in the [Guidance Note](#), which states that the back to back trading halt will only be granted in exceptional circumstances and that a delay in finalizing information to be announced to the market would not be considered to be "exceptional" circumstances. Entities should seek guidance from their home branch if they are contemplating requesting a back to back trading halt.

### **Reinstatement**

ASX may at any time reinstate an entity's securities to quotation ([listing rule 17.7](#)). Prior to reinstatement ASX will ensure that the market has the information referred to in the request for suspension or trading halt as well as any other information ASX asks for. Occasionally ASX may require additional time to satisfy itself that an entity continues to comply with the listing rules (in particular the on-going requirements of [listing rules 12.1, 12.2, and 12.5](#)) prior to reinstating trading in the entity's securities.

### **COMPANY ANNOUNCEMENTS**

Please note that the new facsimile number for company announcements is 1300 135 638. The old 1900 number should no longer be used. For further information, please refer to the following link at [asx.com.au](http://asx.com.au)

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