



ASIC

Australian Securities & Investments Commission

Note: From 27 July 2020, applications for relief should be submitted through the [ASIC Regulatory Portal](#). For more information, see [how you apply for relief](#).

REGULATORY GUIDE 28

Relief from dual lodgment of financial reports

Chapter 2M — Financial reports and audit

Reissued 31/7/2003

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From 5 July 2007, this document may be referred to as Regulatory Guide 28 (RG 28) or Practice Note 61 (PN 61). Paragraphs in this document may be referred to by their regulatory guide number (e.g. RG 28.1) or their practice note number (e.g. PN 61.1).

Editor's note: See also [IR 99/11].

Headnotes

Section 319(1); s320; s792C; former s1071; reg 1.0.08; reg 1.0.09; listed disclosing entities; management companies of undertakings; financial reports and reports.

Purpose

RG 28.1 In this guide, ASIC sets out arrangements agreed on with Australian Stock Exchange Limited (ASX) to avoid the need for dual lodgment of the same financial reports, directors' reports and auditors' reports with both of the two bodies in certain circumstances. These are referred to as the "dual lodgment arrangements" throughout this guide.

RG 28.2 In this guide statutory references are to the provisions of the *Corporations Act 2001* (“Act”) or *Corporations Regulations 2001* (“Regulations”), as the case may be.

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Effect of class order relief

Requirements without dual lodgment relief

RG 28.3 The dual lodgment relief arrangements are available pursuant to ASIC Class Order [CO 98/104]. In the absence of these dual lodgment arrangements, a disclosing entity which has any or all of its securities quoted on ASX (a listed disclosing entity) must lodge a copy of its half and full financial year financial report, directors’ report and auditors’ report (the reports) with ASX under ASX Listing Rules. ASX provides a copy of the reports to ASIC, as it does with all announcements made to the market under ASX Listing Rules. The listed disclosing entity must lodge another copy with ASIC under s319(1) or s320.

Dual lodgment relief

RG 28.4 Under the dual lodgment relief arrangements, ASIC has appointed ASX as its agent to receive certain reports of disclosing entities, so that lodgment of those reports with ASX within the prescribed time for lodgment under the Act will represent lodgment of those reports with ASIC.

Who do the dual lodgment relief arrangements apply to?

RG 28.5 The dual lodgment relief arrangements only apply to reports of a listed disclosing entity, lodged with ASX within the prescribed time for lodgment under the Act, which have been signed by directors of the listed disclosing entity in accordance with s295(5) (the directors' declaration) and s298(2) (the directors' report).

RG 28.6 The arrangements apply equally to the half-year obligation of a trustee of a disclosing entity which is a prescribed interest undertaking and has any or all of its securities quoted on ASX ("a listed undertaking"), to lodge its reports with ASIC under s320 of the Act.

Who do the dual lodgment relief arrangements not apply to?

RG 28.7 ASIC will accept lodgment with ASX of half-yearly reports of a listed disclosing entity as lodgment with ASIC of those reports. However, these arrangements do not apply to lodgment by listed disclosing entities which are not companies or registered schemes ("listed bodies") of their full financial year reports. Listed bodies include Australian incorporated bodies which are not companies and prescribed interest undertakings which are yet to register as registered schemes. See RG 28.16–RG 28.18.

RG 28.8 These arrangements do not apply to lodgment by disclosing entities outside the prescribed time for lodgment. In these circumstances, disclosing entities must lodge directly with ASIC along with the prescribed late lodgment fee, in addition to lodging with ASX.

Relationship of ASX with ASIC

RG 28.9 The dual lodgment relief arrangements build on the existing arrangements between ASIC and ASX. Under these existing arrangements, documents received by ASX from a listed company, which has any or all of its securities quoted on ASX (a listed disclosing entity), are transferred to ASIC (under s792C of the Act). This includes a management company in relation to a listed undertaking: see RG 28.6.

Lodgment options

RG 28.10 As a consequence of the dual lodgment relief arrangements, a listed disclosing entity may comply with its obligation under the Act to lodge reports with ASIC by either:

- (a) lodging those reports only with ASX under ASX listing rules, representing lodgment of those reports with ASIC under the Act (Option 1); or
- (b) continuing to lodge those documents both with ASX and ASIC (Option 2).

Form of half-year financial report

RG 28.11 An entity that wishes to take advantage of the dual lodgment relief arrangements outlined in this guide must prepare its financial report in accordance with the financial reporting requirements contained in Chapter 2M of the Act. The financial report is lodged with ASX as agent for ASIC and may also satisfy the requirement of ASX Listing Rules to give ASX a copy of the financial report that the company is required to lodge under s320 of the Act.

Prescribed forms: class order relief

RG 28.12 To enable the dual lodgment relief arrangements, ASIC has executed class order relief in relation to prescribed forms that are required under the Act or the Regulations to accompany lodgment of financial reports and reports: refer Class Order [CO 98/104].

RG 28.13 Listed disclosing entities taking the benefit of these arrangements need not lodge with ASIC (or with ASX) the completed Form 1001/7051 (under reg 1.0.09 in relation to a half-year) or Form 388 (under reg 1.0.08 in relation to a financial year). ASIC is of the view that, under the dual lodgment relief arrangements, these prescribed forms are unnecessary because:

- (a) the arrangements only apply to signed or verified reports; and
- (b) of the identification of documents by ASX (for instance, by means of an accompanying ASX announcement code under the existing transfer arrangements).

RG 28.14 Of course, if a listed disclosing entity wishes to take Option 2 (see RG 28.10) or in the case of lodgment of financial year

reports by a listed body, reports lodged with ASIC will need to be accompanied by the appropriate forms and any relevant fee.

Listed disclosing entities' obligations

RG 28.15 The dual lodgment relief arrangements deal only with how listed disclosing entities perform their obligations. They do not relieve a listed disclosing entity from the obligation to:

- (a) prepare reports under Parts 2M.2 and 2M.3 of the Act; or
- (b) when Option 1 has been taken — to lodge another copy of reports under s319(1) or 320 of the Act (as the case may be) with ASIC in accordance with a request of ASIC under s1274(11).

Disclosing entities which are not companies or registered schemes

RG 28.16 The periodic reporting obligations under s319(1) (full financial year reports) and s320 (half-year reports) apply to all companies, to all registered schemes and to those disclosing entities which are incorporated or formed in Australia (refer s285(2) and Note 1 to s302 in relation to disclosing entities incorporated or formed outside Australia).

RG 28.17 Under the dual lodgment relief arrangements, ASIC will accept lodgment of half-yearly reports of listed disclosing entities which are not companies or registered schemes (listed bodies) with ASX as lodgment with ASIC of those reports. Again, these arrangements only apply to reports lodged with ASX which have been signed by directors of the listed body in accordance with s303(4) (the directors' declaration).

RG 28.18 However, these arrangements do not apply to lodgment by a listed body of its full financial year reports. It is at present not practicable to extend the arrangements with ASX to include full financial year reports of listed bodies because a fee must also accompany the lodgment of these documents. While disclosing entities are not required by the Corporations (Fees) Regulations to pay a fee on the lodgment of full financial year reports if they are companies or registered schemes, a listed body is required to pay a fee on lodging full financial year reports: see Item 9A of the Corporations (Fees) Regulations and Information Sheet 30 *Fees for commonly lodged documents* (INFO 30) at www.asic.gov.au/fees. Any waiver of

this fee is a matter for Act reform and is not relief which ASIC can give.

Monitoring of the arrangements

RG 28.19 The arrangements will be subject to monitoring of their operation by ASX and ASIC.

Concise reports

RG 28.20 Class Order [CO 98/104] facilitates dual lodgment relief arrangements for listed disclosing entities. Under these arrangements certain listed disclosing entities may satisfy their year end lodgment obligations by filing reports with ASX. The order (as varied by Class Order [CO 99/90]) allows and requires concise reports to be lodged with the ASX with any full annual report.