

## Addisons FocusPapers

---

### **Foreign Entities wishing to List on the Australian Securities Exchange**

Subject to meeting certain requirements under the Corporations Act 2001 (Cth) and the Listing Rules of ASX Limited (ACN 008 624 691), foreign entities may list on the Australian Securities Exchange (“ASX”).

ASX Listing Rule 1.1 sets out the conditions that must be met by entities wishing to be admitted to the official list of ASX. Condition 4 of Listing Rule 1.1 provides that if the entity wishing to list on ASX is a foreign entity then it must:

- (a) establish in Australia an Australian securities register (or subregister) – if the entity has a certificated subregister for quoted securities;
- (b) appoint an agent for service of process in Australia; and
- (c) must be registered as a foreign company under the Corporations Act.

Guidance Note 4 of the Listing Rules provides guidance to foreign entities wishing to apply for listing on ASX. Foreign entities should be aware of the following requirements detailed in the ASX’s guidance note:

- A foreign entity wishing to list on ASX:
  - is not required to be listed on another stock exchange;
  - is subject to the same admission requirements that apply to an Australian entity; and
  - must have a constitution that is consistent both with the law of the place where it is established and with the ASX Listing Rules.
- As far as possible, the foreign entity’s constitution should be consistent with the Corporations Act.
- There is no requirement for a minimum number of Australian-resident security holders. However, ASX encourages foreign entities seeking listing on ASX to maintain a sizeable and diverse security-holding base in Australia.
- The same rules regarding restricted (escrowed) securities apply to foreign entities.

# Addisons FocusPapers

- If the foreign entity is conducting business through joint ventures this may raise issues under:
  - Listing Rule 1.3.2(b) which requires an entity to have commitments to spend at least half of its cash and assets in a form readily convertible to cash; and
  - Listing Rule 1.1 which requires that an entity's structure and operations must be appropriate for a listed entity.
- The foreign entity is not required to conduct business activities in Australia.
- Foreign entities will essentially be subject to the same continuous disclosure and financial reporting requirements as listed Australian entities.
- Financial information given to ASX must be in accordance with Australian accounting standards or other standards acceptable to ASX. ASX currently accepts international accounting standards and the standards or the generally accepted accounting principals (GAAP) of certain countries, such as New Zealand.
- The ASX recommends a foreign entity to consider including in its prospectus:
  - details of any limitations on the acquisition of securities imposed by the jurisdiction in which it is incorporated;
  - statements to the effect that it is not subject to the takeover and substantial holding provisions in the Corporations Act, because it is a foreign entity; and
  - details of its place of incorporation.

The above information must be included in the foreign entity's annual report.

- The foreign entity will need to obtain any necessary approvals in its country of incorporation before applying to be listed and give evidence to ASX of having received all relevant approvals when making its application.
- The foreign entity will need to appoint a local agent in Australia to accept service of documents. This is also a requirement under the Corporations Act for Australian-registered foreign entities.

Note that different rules may apply to ASX Foreign Exempt Listings, that is, entities that are already listed on foreign stock exchanges.

If your company is considering listing on ASX, Addisons can assist in all stages of the initial public offering and ASX listing process. Please do not hesitate to contact our Corporate team if you have any queries.

10 October 2007



# Addisons FocusPapers

---

**For more information please contact:**

**David P. Selig, Partner**

Telephone: +61 2 8915 1010

Facsimile: + 61 2 8916 2010

Email: [david.selig@addisonslawyers.com.au](mailto:david.selig@addisonslawyers.com.au)

**Nathan Greenfield, Solicitor**

Telephone: +61 2 8915 1042

Facsimile: +61 2 8916 2042

Email: [nathan.greenfield@addisonslawyers.com.au](mailto:nathan.greenfield@addisonslawyers.com.au)