

1 July 2016

Ms Diane Lewis
Senior Manager, Regulatory & Public Policy
Office of the General Counsel
ASX Limited
20 Bridge Street
SYDNEY NSW 2000

via email: regulatorypolicy@asx.com.au

Dear Ms Lewis

Updating ASX's admission requirements for listed entities

The Australian Institute of Company Directors (AICD) is pleased to provide comments on *Updating ASX's admission requirements for listed entities: Consultation Paper 12 May* ('Consultation Paper').

The AICD is committed to excellence in governance. We make a positive impact on society and the economy through governance education, director development and advocacy. Our membership of more than 38,000 includes directors and senior leaders from business, government and the not-for-profit sectors.

The AICD supports the ASX's objective 'to ensure that the ASX market continues to be a market of quality and integrity, and remains internationally competitive'. We consider the proposals, taken as a whole, to be consistent with these policy objectives.

While the AICD is generally supportive of the Consultation Paper proposals we note that the higher thresholds will limit the ability of start-up and early stage enterprises to access capital through an ASX listing. We encourage the ASX to apply appropriate discretion in the application of its thresholds and to monitor the impact of its proposed changes to ensure that they do not impede the growth of innovative businesses in Australia.

We acknowledge that an ASX listing (with its attendant compliance and reporting obligations) may not be the optimal source of capital funding for smaller start-up entities. If implemented, the proposed listing rule changes will intensify demand for alternate capital funding options for early stage and start-up entities and the AICD encourages regulatory and market consideration of funding options to meet this demand.

Our further comments on specific questions in the Consultation Paper are included below.

- **Q1: 20% free float requirement**

The AICD supports the introduction of the 20% free float requirement, noting that peer exchanges generally have requirements in the range of 12-25%. We acknowledge that in practice the ASX has adopted a flexible approach to free float requirements in circumstances when a potential listing entity has explained its plans to increase the free float. We support the ASX continuing to apply its discretion in such cases.

- **Q3: Changes to the spread test**

While we support the objectives of ensuring adequate liquidity and sufficient investor interest in potential listings, the proposed increase in parcel size (from \$2000 to \$5000) is relatively significant from the perspective of retail investors. The AICD encourages the ASX to give further consideration to the impact the measure would have on the ability of retail investors to invest in new issues.

- **Q4: Changes to the profit test**

The AICD supports the increase proposed. We note that the threshold has not been lifted since 1994 and the proposed increase is significantly lower than comparable CPI.

- **Q5: Increase in the net tangible assets (NTA) and market capitalisation elements of the assets test**

The AICD is supportive of the proposed increase in the market capitalisation threshold. As the Consultation Paper acknowledges, however, the proposed increase in the NTA threshold (from \$3 million to \$5 million) would limit the ability for early stage and start-up enterprises to list. Noting that the NTA threshold was increased as recently as four years ago we encourage further review of this proposal. It may also be useful for the ASX to consider providing more detailed guidance on the application of its discretion to entities that are otherwise able to demonstrate financial strength.

- **Q6: Extend the minimum requirement for \$1.5 million working capital to all entities admitted under the assets test; and**

- **Q7: Maintain a fixed minimum \$1.5 million working capital requirement in addition to a requirement ... to (certify) sufficient working capital to meet stated objectives**

The AICD supports the proposal to standardise the application of the working capital test as proposed, and to maintain the requirement for a fixed minimum \$1.5 million working capital requirement (in addition to requiring entities admitted under the assets test to certify that they hold sufficient working capital to meet stated objectives). We consider that these measures will reduce complexity and enhance confidence in the financial strength of listing entities and their capacity to carry out their stated objectives.

- **Q8: Requirement for entities admitted under the assets test to provide three full financial years of audited financial accounts... unless otherwise approved; and**

- **Q9: ASX to generally accept less than 3 years of audited financial accounts only where ASIC would accept less than 3 full years of accounts (per RG228)**

The AICD supports the proposal for entities listing under the assets test to provide three full years of audited financial accounts, unless the ASX approves otherwise. However, further work is required on the proposal to require three full years of audited

accounts for 'any entity or business acquired/to be acquired by the entity ahead of listing'. AICD members have emphasised the importance of the ASX maintaining appropriate flexibility in this area. This is particularly relevant to start-ups and emerging enterprises, and in situations where historical information is no longer relevant (for example, where the profile of a business has changed or the information is not material to the potential issuer). We encourage the ASX to develop a clear materiality framework to guide potential issuers and to consider guidance on its use of discretion.

The ASX listing rules should also explicitly confirm that the ASX will accept two years of audited accounts and six months of reviewed accounts in some circumstances, to align with Australian Securities and Investments Commission (ASIC) proposed requirements outlined in Consultation Paper 257 *Improving Disclosure of historical financial information in prospectuses: Update to RG 228 (CP257)*.

- **Q10: ASX to only accept modified opinion, emphasis of matter or other matter paragraph in accounts where ASIC would accept the same (per RG228)**

The AICD has no objection to this proposal. We will provide more comment on the circumstances where modified opinions and emphasis of matter paragraphs should be accepted in our response to ASIC's CP257.

- **Q14 Application Date of 1 September**

The AICD does not support the proposal for the amended listing rules to commence from 1 September 2016. We consider that at least three months' notice should be provided in advance of commencement, in order for those entities in the process of listing to transition appropriately and for the market to absorb and consider the changes.

If you would like to discuss any aspect of our views please contact Kerry Hicks, Senior Policy Adviser, on khicks@aicd.com.au or 02 8248 6635.

Yours sincerely



JOHN BROGDEN
Managing Director & Chief Executive Officer