

MEMORANDUM

FROM: Sebastian Gomez Abero
Special Counsel
Office of Chief Counsel, Division of Corporation Finance
U.S. Securities and Exchange Commission

RE: Meeting with a representative of MicroAngels

DATE: July 24, 2012

On July 16, 2012, Commission staff met with a representative of MicroAngels to discuss issues regarding the implementation the Jumpstart Our Business Startups Act.

The following Commission representatives were present: David Blass, Joseph Furey, Ignacio Sandoval, Timothy White, and Shaheen Haji from the Division of Trading and Markets; and Tamara Brightwell and Sebastian Gomez Abero from the Division of Corporation Finance.

The following representative of MicroAngels was present: Mark Perlmutter.

The information provided by the representative of MicroAngels is attached.



Australian Small Scale Offerings Board

Rules of Admission

The Australian Small Scale Offerings Board is an independent commercial organisation dedicated to the needs of growing companies seeking equity capital, a platform for the promotion and sale of their shares and an increased profile achieved through disclosure and communication.

We are not authorised or supervised by a regulatory body, however as our reputation relies upon our profiled companies and their officeholders demonstrating principles of good corporate governance to shareholders, investors and to our Board, we require that companies promoted through our Platform follow a simple set of disclosure rules known as the ASSOB Rules of Admission ("ASSOB Rules").

Introduction

The ASSOB Rules of Admission (**Rules**) have been established by ASSOB Pty Ltd ACN 114 722 020 (**ASSOB**) to:

1. Prescribe requirements which must be met before an entity (**Issuer**) may be admitted to the Australian Small Scale Offerings Board (**Board**);
2. Outline continuing obligations of standard conduct that ASSOB reasonably expects to be performed by an Issuer once admittance to the Board has been granted; and
3. Stipulate events of non-compliance which may be deemed a breach of the Rules and invoke suspension and/or cancellation of a company's admission to the Board.

These Rules have been written with the purpose of educating companies about the importance of adopting good governance policies and practising disclosure and transparency in order for investors and shareholders to have, and maintain confidence in, the reputation of ASSOB and Issuers as profiled through the ASSOB Platform. These Rules may be amended or added to by ASSOB from time to time. Such amendments or additions are of no effect until made available to Issuers on the Board at www.assob.com.au (**Website**).

Rules of Admission

1. Admission Requirements:

- 1.1 An Issuer's admission to the Board will only be granted once ASSOB is satisfied that the following pre-conditions have been met:
 - a. The Issuer must be, or have made application to be, formally registered with the Australian Securities and Investment Commission (**ASIC**) as an Australian public unlisted company.
 - b. The Issuer must have at least three (3) directors, and at least two (2) executive directors must be domiciled in Australia.
 - c. The Issuer must provide to ASSOB all requested supporting documentation for inclusion on the Board.
 - d. The Issuer must provide to ASSOB a duly executed Director's Declaration & Undertaking and Director's Solvency Statement.
 - e. The Issuer must have paid to ASSOB all applicable fees.

2. Maintaining Admission

- 2.1 An Issuer must undertake regular reporting and disclosure of all material information relating to the company and its investment offering (if applicable) to maintain admittance to the Board:

- a. Within twenty-one (21) days from the beginning of each quarter the Issuer must upload to its Profile Page a company progress report or update detailing current activities.
 - b. Within twenty-one (21) days from the beginning of each quarter the Issuer must provide ASSOB with a statement signed by all directors outlining information in the attached form as prescribed at Annexure A.
 - c. The Issuer must upload to its Issuer Page an electronic copy of its annual reports to ASSOB no later than four (4) months after the conclusion of its financial year (as required by s319(3)(a) of the *Corporations Act 2001 (Cth)*).
 - d. The Issuer must upload to its Issuer Page an electronic copy of its Annual General Meeting Notice and Minutes of Meeting results within ten (10) days of any meeting held.
- 2.2 The Issuer must notify ASSOB in writing of any change to company details or other lodgements made with ASIC in the form as requested by ASSOB within seven (7) days from the date of request.
- 2.3 The Issuer shall provide a notice to ASSOB of any material information that would effect newly invested shareholder interests in the Company as soon as practicable.
- 2.3 In cases where it is found that an Issuer has not discharged these continuing obligations or ASSOB has determined that an Issuer has fallen below the abovelisted criteria, ASSOB has the sole discretion to continue, suspend, or withdraw (delist) an Issuer's admittance to the Board.

3. Additional Admission Requirements

- 3.1 The Issuer is required to appoint an Auditor within one (1) month after the day of becoming a public unlisted company (company registration or conversion) (as required by s327A(1) of the *Corporations Act 2001 (Cth)*) and must publish the name of the Auditor on its Profile Page.
- 3.2 The Issuer must engage an independent party to provide share registry services, that being either an independent securities registrar or an approved custodian or registrar and must publish the name of the Registrar on the Board.

4. Suspension and Cancellation of Admission

- 4.1 ASSOB has the sole discretion to suspend and/or cancel an Issuer's admission to the Board. Any decision by ASSOB pursuant to these Rules is binding upon an Issuer. ASSOB may vary or revoke its decision, either on the application of an Issuer or of its own accord.
- 4.2 An Issuer's admission to the Board is always granted subject to the condition that where ASSOB considers it necessary or appropriate for the protection of investors it may at any time suspend or cancel an Issuer's listing on the Board. Such circumstances include:
- i. The Issuer failing, in a manner in which ASSOB considers material, to comply with these Rules or corporations or trade practices laws;

- ii. The Issuer falls outside the scope of the relief available under the *ASIC Class Order 02/273 Business Introduction and Matching Services*;
 - iii. The Issuer making an application to wind up the company through ASIC or an application made by a creditor to ASIC to wind up the company;
 - iv. ASSOB is of the reasonable opinion that the Issuer's actions may likely lead to damage of the reputation of ASSOB and has provided the Issuer with notice of that opinion; or
 - v. The Issuer fails to pay to ASSOB any amount due and payable.
- 4.3 A short removal of the Issuer's investment document or Profile Page may be requested by an Issuer upon the occurrence of a material event which requires immediate disclosure under these Rules. The Issuer is required to provide to ASSOB details of the material event for inclusion as an announcement on the Issuer's Profile Page.
- 4.4 Where ASSOB considers that an Issuer's admission to the Board be cancelled, an announcement will be made specifying the reasons which has rendered the Issuer unsuitable for promotion through the ASSOB Platform, if in ASSOB's opinion it is appropriate.

Signed: 

Chief Executive Officer

22 November 2011

Guide to completing Annexure A: the director's quarterly responsibility statement

1. The Australian Small Scale Offerings Board (**ASSOB**) provides this annexure to assist the directors to comply with the requirements of the ASSOB Rules of Admission. Each statement recorded in the Director's Quarterly Responsibility Statement (**Statement**) corresponds with a requirement in the Rules.
2. The directors do not have to use this Annexure and may submit alternative documentation. However, the Issuer must still fulfill the Rule requirements and ASSOB has the sole discretion to determine whether the Issuer has provided a level of information to satisfy the Rules.
3. For the sake of convenience, ASSOB provides the Statement in an editable format to enable the directors to clearly respond to the correct statement.
4. To maintain listing on the Board, ASSOB requires directors to complete the Statement and provide the Statement for each three (3) months subsequent to the Listing on the Board.
5. If the Issuer is required to provide particulars for a Declaration, please provide an annexure to the Statement and include the particulars. Number each particular with the number of the Declaration corresponding.
6. This guide does not form part of the Annexure.

Annexure A: director's quarterly responsibility statement

We are Director's of [INSERT COMPANY AND ACN] (**Company**) and confirm that:

1. There are reasonable grounds to believe that our Company will be able to pay its debts as and when they become due and payable;
2. The current details of the Offer Document remain true and correct and that there is no need for a Supplementary or Replacement Offer Document or to withdraw the Offer Document at this time;
3. We have taken reasonable care to ensure that our Offer as listed on the Board is not misleading, false or deceptive and, does not omit anything likely to have an adverse effect on our Company;
4. The details of our Issuer Page on the ASSOB website are correct and no further information needs to be provided at this time;
5. The capital raised under Rounds 1,2, etc have been used in accordance with the use of funds schedule outlined in the Offer Document dated [INSERT DATE];

Or alternatively

The capital raised under Rounds 1,2, etc have not been utilized in accordance with the use of funds schedule outlined in the Offer Document dated [INSERT DATE] but rather they were used in the following manner [INSERT SCHEDULE FOR THE USE OF FUNDS AND THE REASONS FOR THE VARIATIONS];

6. Our share registry contains all issues of shares and ASIC has been notified of each new share issue within the appropriate timeframe;
7. Our share registry correctly identifies investors as either a personal, sophisticated, professional or other excluded investor as applicable; and
8. The details of the Officers of our company as provided are correct and ASIC has been notified within the appropriate timeframe.

Sign	Sign	Sign
Director [insert name]	Director [insert name]	Director [insert name]
Date	Date	Date

What does it cost issuers to get approved to raise funds on ASSOBS?

\$990 to get approved

\$3960 for listing on the platform

And what total expenses does an issuer spend to complete an offering?

In addition to the above costs they need to have an "Offer Document" or "Information Memorandum" prepared which usually cost between \$3000 to \$8000. ASSOBS doesn't prepare this.

What is ASSOBS responsible to pay for in the vetting process?

Nothing. We don't pay anyone anything

Are there tiers of amounts raised with corresponding fees and requirements as proposed in the US CF law?

No. Fees are the same for all levels.

However if we are to move into raisings under \$500k we will we would halve the above costs.

Firstly background checks are done on the founders, directors, the legal entities, that the IP is in the entity being invested in.

Secondly all documentation communicated by Directors to investors is signed off by the Directors and they are liable under normal corporations law if they misrepresent or overstate the investment opportunity.

Thirdly every three months Directors must sign a solvency and Directors responsibility statement.

A minimum subscription is part of every offer and funds are kept in escrow until the minimum is reached.

All investors must submit 100 points of ID to meet money laundering regulations



Australian Small Scale Offerings Board Issuer Admission Terms & Conditions

The Australian Small Scale Offerings Board is an independent commercial organisation dedicated to the needs of growing companies seeking equity capital, a mechanism for sales of their issued share capital, a forum to increase their company profile and a platform for disclosure and communication.

We are not authorised or supervised by a regulatory body, however as our reputation relies upon our profiled companies and their officeholders demonstrating principles of good corporate governance to shareholders, investors and to our Board, we require that our profiled companies follow a simple set of disclosure rules known as the ASSOB Rules of Admission (“**ASSOB Rules**”).

Introduction

ASSOB Pty Ltd ACN 114 772 020 (**ASSOB**) operates its business in accordance with the provisions of the Corporations Act 2001 (Cth) (the **Act**) and the Australian Securities & Investment Commission (ASIC) Class Order 02/273 “Business Introduction & Matching Services” (**Class Order**).

Pursuant to the Class Order, ASSOB operates its business twofold: firstly as an Operator of a Business Introduction Service (**First Exemption of the Class Order**), whereby investors can communicate directly with companies seeking to raise capital or with sellers of issued securities and vice versa; and secondly, as a Publisher (**Fifth Exemption of the Class Order**) circulating information it receives from companies (**Issuers**) and sellers of securities or other Class Order Operators about offers, advertisements and statements about companies who are soliciting investment or sellers of issued securities who are seeking an exit to their investment (**Third Exemption of the Class Order**).

This document sets out the requirements which apply to an Issuer upon admittance to the Australian Small Scale Offerings Board (**Board**).

Because the material that is circulated by ASSOB as an Operator or Publisher may constitute an offer or invitation of securities and that distribution of the material may encourage a member of the public to enter into negotiations calculated to result in the issue or sale of securities, limits on the material that may be circulated about an offer and warnings about the use to which such information may be put, apply. It is for these reasons, that an Issuer is responsible to ASSOB for complying with the criteria as set out in the ASSOB Rules of Admission (**ASSOB Rules**) and these Issuer Admission: Terms & Conditions (**Terms**) herein.

It should be noted at the outset that the approval of an Issuer for admission to the Board is conditional on the Issuer’s compliance with the initial and continuing obligations set out in the ASSOB Rules and the Terms herein. ASSOB may terminate an Issuer if, in its opinion, the Issuer is or would be likely to impair the integrity of ASSOB or the interests of investors.

The following Terms set out the responsibilities, role, ongoing obligations and certain disciplinary matters in relation to admitted Issuers.

Responsibilities of an Issuer

Companies seeking admission to the Board must appoint and retain a Sponsor to undertake a capital raising campaign on the Australian Small Scale Offerings Board.

The Sponsor must be a participating organisation accepted by ASSOB and be a Class Order Operator pursuant to ASIC 02/273 “Business Introduction & Matching Service”. It is the Sponsor’s responsibility to introduce the Issuer to ASSOB and assist the Issuer with our admission procedure and ongoing compliance obligations pursuant to the Act, our Rules and these Terms. A Sponsor is independent of ASSOB and ASSOB is not responsible for any actions or inactions by a Sponsor in relation to the provision of any services to the Issuer.

As part of an Issuer's general obligations to its shareholders, investors and our Board, an Issuer owes the following responsibilities to ASSOB:

- supplying to ASSOB all such information and documentation in relation to its Company, or its securities, as ASSOB requires;
- the accuracy of content of any document, publication or material used for the purpose of promoting or calling attention to itself, including but not limited to, any business plan, disclosure document or information memorandum uploaded to the Board on the Issuer's behalf; any advertising, promotional or marketing material either published by ASSOB or through the Issuer's own network; any shareholder updates, announcements, newsletters, financial statements, declarations or statements as published on the Board in relation to the Issuer; and, any material generally published by ASSOB in relation to the Issuer;
- compliance with the ASSOB Rules as available on the ASSOB website and which may be amended from time to time;
- compliance with the Corporate, Trade Practices and other applicable laws;
- compliance with any reporting or other legal obligations of the Issuer, including under any law or regulation;
- guaranteeing to ASSOB that all material and information regarding the Issuer or included in any publication or material provided for the purpose of promoting or drawing attention to the Issuer, that is prepared by the Issuer or on behalf of the Issuer or its shareholders (whether by ASSOB or any other individual or entity) does not contain any statements, representations or omissions with respect to current or future matters that are, or are likely to be, false, misleading or deceptive, or without a reasonable basis; and
- pay to ASSOB all fees as prescribed by ASSOB and within the time limits imposed by ASSOB.

In addition to the responsibilities outlined above, the Issuer acknowledges that at no time has ASSOB:

- i. represented that ASSOB is a 'stock exchange' or 'securities exchange';
- ii. represented that ASSOB is a market and potential buyers and sellers can regularly execute orders;
- iii. given any assurances or guarantees (express or implied) that prospective investors will subscribe for the Issuer's securities;
- iv. made any representation to the Issuer that:
 - a. the price of any securities or interests to be sold to an investor or offered for sale by any shareholder is representative of the underlying value of those securities or interests;
 - b. the Issuer will be able to procure investment in its securities at a higher issue price than a previous sale or transfer price; or
- v. provided financial product or investment advice to the Issuer.

Continuing Obligations of an Issuer

An Issuer's admittance to the Board is subject to general continuing obligations, which are standard conduct that ASSOB reasonably expects to be performed by an Issuer, as set out below:

- compliance with regulatory requirements – an Issuer must comply with all legislative requirements applicable to it by reason of its status as an unlisted private or public company;
- compliance with the ASSOB Rules as amended from time to time;
- co-operate with any regulatory enquiries conducted by ASSOB or the Sponsor in relation to compliance with the ASSOB Rules or these Terms and shall furnish ASSOB with such information and within such time limits as it may reasonably require;
- fulfil its responsibilities to ASSOB pursuant to the ASSOB Rules and these Terms with due care and skill, such as to uphold the reputation and integrity of ASSOB and its Sponsors;
- in order to remain eligible for admission to the Board, an Issuer must pay to ASSOB all fees as prescribed by ASSOB and within the time limits imposed by ASSOB.

In cases where ASSOB has found that an Issuer has not discharged these continuing obligations or has determined that an Issuer has fallen below the above criteria, ASSOB may suspend or withdraw an Issuer's admittance to the Board.

Suspension or Cancellation of Admission by an Issuer

Suspension of Company Profile Page

An Issuer may request that its Company Profile Page be temporarily suspended from promotion on the Board.

Circumstances for suspension generally include a company restructure or revitalisation of a company's investment offering, usually when a company's offering has been withdrawn or closed for investment.

In this event, ASSOB will revert the Profile Page back to 'Preview' status, whereby the Profile Page can only be accessed through the hyperlink at www.assob.com.au/abc. The company will still be required to adhere to the ASSOB Rules and these Terms to maintain its admission to the Board.

Any request for the suspension must be made by an Issuer in writing including the reasons for the request and if appropriate a draft announcement should be provided.

A suspension is effected through the issue of an Announcement by ASSOB and the Issuer's suspension will remain until it is lifted or otherwise.

Any monthly fees to be paid during this period of suspension will be at ASSOB's discretion after consultation with the Issuer.

Cancellation of Admission

An Issuer may request that its admission to the Board be cancelled (Voluntary Delisting).

There are two (2) types of Voluntary Delisting from the Board.

1. PERMANENT

The Issuer can request to delist at any time. This is a permanent event.

2. TEMPORARY

The Issuer can request to be temporarily delisted. The Issuer will be required to continue paying to ASSOB its Monthly Fees.

During this period, the Issuer will not be required to adhere to the ASSOB Rules or these Terms, however upon return to re-admission, the Issuer must lodge with ASSOB all necessary documentation required pursuant to the ASSOB Rules and these Terms.

Any request for the cancellation of admission must be made by an Issuer in writing including the reasons for the request and if appropriate a draft announcement should be provided.

A cancellation of admission is effected through the issue of an Announcement by ASSOB. ASSOB will cease to promote the company and any queries about the Issuer are directed to the company.

Any cancellation of an Issuer's admission to the Board will be without recompense for any fees paid.

Suspension or Cancellation of Admission by ASSOB

When considering the conduct of an Issuer, the paramount consideration will be the effect of such conduct on the integrity and reputation of the Board, including:

- the conduct of an Issuer in its dealing with ASSOB or its Sponsor; and
- the conduct of an Issuer in its dealing with its shareholders.

In the event that an Issuer no longer complies with any requirement of these Terms or the ASSOB Rules, or if at any time ASSOB considers that the integrity or reputation of its business may be or may have been impaired as a result of the conduct or judgment of an Issuer, or if an Issuer is no longer fit and proper as deemed by ASSOB in its sole discretion, to maintain its admission on the Board, ASSOB may impose on that Issuer such sanctions as ASSOB considers appropriate.

ASSOB may suspend or cancel an Issuer's admission if in its opinion the continued admission would seriously prejudice the interests of shareholders, investors or ASSOB, or if the Issuer is in breach of its obligations under these Terms which is not capable of rectification within a reasonable period.

ASSOB may suspend or cancel an Issuer's admission with immediate effect and without recompense by giving notice to the Issuer if the Issuer does any act or thing, of which ASSOB becomes aware, in relation to its listing that in ASSOB's opinion, may:

- contravene any corporate or trade practices laws;
- fall outside the scope of the relief available under the ASIC Class Order 02/273 Business Introduction and Matching Services (only for offers of securities made without a registered Disclosure Document);
- fail to comply with an ASSOB Rule;
- have a detrimental effect on the reputation of ASSOB; or
- the Issuer fails to pay to ASSOB any amount due and payable.

An Issuer will be notified of any action proposed to be taken by ASSOB in accordance with this provision in writing and any such decision of ASSOB may be appealed by the Issuer concerned within five (5) business days of being notified of the decision and refer the decision to the ASSOB Admissions Committee for consideration. Any suspension or cancellation of an Issuer's admission by ASSOB will be without recompense.

Publication of Issuer Delisting

Where ASSOB suspends or delists an Issuer from the Board (for example, due to disciplinary action or if the Issuer has requested suspension or cancellation) ASSOB may notify such delisting by way of an Announcement published on the Board.

Fees

Capital Raising Campaign

Our **application** fee is \$990 (GST inc.) to apply for admission to the Board.

An **admission** fee of \$3,960 (GST inc.) is payable by all companies who have gained approval for admission to our Board. This fee includes the first monthly fee for promotion through our Board.

Companies are to pay a **monthly** fee of \$458 (GST inc.) to maintain admission to the Board and the fees must be paid in advance of each month.

A **transaction** fee of 1.65%* (GST inc.) is payable upon all capital raised through the matching of a bid for a security and an offer of a security (**Transaction**) whilst the company is undertaking its capital raising campaign generally (i.e. after admission to the Board has been approved and prior to finalising its ASSOB admission), promoted on the Board or for ASSOB to promote any capital raised prior to the company being admitted to the Board (through our 'red dots' or marketing channels).

** **Please note:** Whilst the Issuer only pays ASSOB 1.65%, ASSOB reserves the right to charge additional Transaction Fees direct to the Sponsor in recompense of services provided by ASSOB to assist the Sponsor in their role - e.g. administrative services, corporate advisory, etc.*

A note about monthly fees:

Monthly fees are payable by Issuers in advance for each month the company promotes an open investment offering through the Board, whether it be at the hyperlinked address (e.g. www.assob.com.au/abc) or Live on the Primary Board.

Issuers must complete the Monthly Fee section of the *Application For Admission: Final Form* prior to the company's investment document being uploaded to the Board.

In the event an Issuer fails to pay its Monthly Fees by the prescribed date, the Issuer acknowledges and agrees that it will be in immediate breach of the ASSOB Terms.

ASSOB Guarantee

If a company fails to raise capital in its first four (4) months of the opening date of the offer, ASSOB will waive the obligation to pay monthly fees in advance until the company has attained minimum subscription.

If a company ultimately fails to raise capital during its period on the Australian Small Scale Offerings Board, ASSOB will waive any obligation to pay outstanding monthly fees.

If an Issuer has funds held in Trust awaiting disbursement on its behalf, the Issuer hereby authorises the Trustee, upon receipt of written invoice from ASSOB, to release funds to ASSOB in payment for outstanding Monthly Fees to ASSOB prior to any funds being disbursed to the Issuer.

Compliance Profiling Campaign

Our **application** fee is \$990 (GST inc.) to apply for admission to the Board.

An **admission** fee of \$3,960 (GST inc.) is payable by all companies who have gained approval for admission to our Board. This fee includes the first monthly fee for promotion through our Board.

Companies are to pay a **monthly** fee of \$458 (GST inc.) to maintain admission to the Board and the fees must be paid in advance of each month. However, for Compliance Profiling, if your Share Registry is managed by our sister-company Unlisted Services Pty Ltd, our monthly fee will be **waived**.

For companies whose capital raising offer has closed, the Profile Page will be automatically transferred to a Compliance Profiling Campaign. Provided an Issuer's monthly fees have been paid up-to-date, ASSOB levies a yearly fee of \$396 (GST inc.) to maintain admission to the Board (instead of monthly fees) and the fee must be paid in advance of each year.

In the event that an Issuer's admission is terminated, the Application does not proceed once the Company Profile Page is made available and accessible through the Board or the Issuer cancels or suspends its admission, any Fees paid are non-refundable.

Releases & Indemnity

Release

The Issuer irrevocably releases and forever discharges ASSOB against any claim that the Issuer or a third party may otherwise have against ASSOB for any liability that the Issuer incurs arising out of:

- i. the Issuer's admission and subsequent company profiling and promotion on the Board;
- ii. the Issuer's company documentation, such as business plans, investment and/or disclosure documents, company profiles, announcements, shareholder reports, financial reports, profiles or any other material to the subject matter to be reproduced on the Board on behalf of the Issuer; and/or
- iii. the Issuer failing to comply with any legislative or regulatory requirement or ASSOB Rule.

Indemnity

The Issuer herein indemnifies ASSOB:

- i. against all Claims (including the cost of defending or settling any Claim) which may be instituted against either the Issuer and/or its Directors or Founders or ASSOB, arising out of:
 - a. a breach of these Terms by the Issuer;
 - b. a breach of the ASSOB Rules by the Issuer;
 - c. suspension or removal of the Issuer from the Board;
 - d. the company documentation or anything done or omitted to be done by the Issuer in connection with its company documentation;
 - e. the Issuer failing to comply with any legislative or regulatory requirement;
 - f. the negligence of the Issuer, its agents, employees or sub-contractors or of any other person for whose acts or omissions the Issuer is vicariously liable; and/or
 - g. an unsatisfied or litigious shareholder or former shareholder of the Issuer.

Release and Broadcasting of Company Information

The Issuer expressly releases, consents and authorises ASSOB to use any information contained in the Issuer's company documentation and any other material, document, images or information provided by the Issuer in any form (whether subject to any copyright or other intellectual property protection or not) for the following purposes:

- i. compilation of the Issuer's Company Profile Page as promoted on the Board;
- ii. calling attention to the Issuer and its securities, whether through advertising and promotion, meetings and presentations with prospective investors or publication on the Board;

- iii. the publishing, broadcasting, announcement and release of the Issuer's company documentation as compiled on the Company Profile Page or e-newsletter through the ASSOB, ASSOB TV or any other means of promotion by ASSOB, including any subsequent amendments, alterations, deletions or attachments thereof;
- iii. the promotion of ASSOB and its services generally.

The Issuer grants its consent to ASSOB for the use of any material provided to ASSOB by the Company or its Sponsor, or from its website pictures or materials to be used on the ASSOB Website, on ASSOB printed/electronic brochures, publications or materials, or other ASSOB collaterals, or archived for reference purposes.

Communications

In respect of any communication that an Issuer may make with investors or potential investors and which promotes or otherwise refers to ASSOB, every Issuer must ensure that:

- a. the communication complies with an Issuer's obligations under corporate and competition and consumer laws and ASIC regulations;
- b. the communication, as it relates to ASSOB, only includes the following statement about the Issuer's admission to the Board:

ABC Limited is currently listed on the Australian Small Scale Offerings Board (**ASSOB**). For more information on ABC visit the ASSOB website at www.assob.com.au/ABC.

- c. at least ten (10) business days before issuing such communication, the Issuer is to provide us with a draft of the communication to enable us to verify compliance with its obligations under paragraph (b); and
- d. not make or allow any statement or implication that is contrary to the statement in paragraph (b) above.

In addition, upon an Issuer either voluntarily delisting or being delisted from the Board, the Issuer will remove any reference to ASSOB from its website or marketing and promotional materials, within three (3) days from being delisted from the Board. otherwise the Issuer acknowledges that it will be 'passing off' that it is associated with ASSOB and misrepresenting its status.

Liability & Indemnity

If ASSOB does not meet its obligations under these Terms to an Issuer, and an Issuer reasonably incurs expenses as a result, ASSOB will reimburse such expenses up to the amount of the Transactions Fees that have been paid in respect of the Transaction or Transactions concerned.

For ASSOB to consider an Issuer's claim, the Issuer must notify ASSOB within one (1) month after the time when ASSOB did not meet its obligations.

Except as provided above, any and all liability ASSOB may have to an Issuer is excluded. ASSOB is not liable to an Issuer or have to pay an Issuer for anything else caused by or resulting from any action or inaction by ASSOB, whether or not contemplated or authorised by any agreement an Issuer has with ASSOB. This exclusion applies for whatever an Issuer is claiming (including loss of profits, savings, revenue or business) and however liability might arise.

If ASSOB is ever liable to an Issuer and, for any reason whatsoever, ASSOB cannot rely on the exclusion of liability in the clause above, the maximum combined amount ASSOB will have to pay an Issuer and anyone else (together) is:

- a. \$1,000 for any event or series of related events;
- b. a total of \$5,000 in any 12 month period.

The Issuer indemnifies ASSOB against any liability, loss or costs (including legal costs) ASSOB incurs to any third party in connection with an Issuer's performance (or otherwise) or breach of these Terms, or ASSOB Rules.

Acknowledgements

Name of Issuer

On behalf of the abovenamed company, in consideration of ASSOB granting and accepting our application for admission to the Board, we undertake that these Terms and Conditions shall be irrevocable and agree that this document shall constitute a contract between us and ASSOB that shall become binding upon our execution of these Terms herein.

We confirm that all documents and information required to be included for our application and subsequent admission to the Board has been or will be supplied in accordance with these Terms, the ASSOB Rules and all other requirements of these Terms and the ASSOB Rules in respect of the admission have been complied with.

PLEASE NOTE: The Issuer Terms & Conditions is to be signed pursuant to s127 of the *Corporations Act 2001* - if a company has 2 directors or a director and a secretary, then any 2 of them may sign.

Director	Director / Secretary

Date of Execution



ASIC

Australian Securities & Investments Commission

[For companies](#) > [Running](#) > Your company and the law

Your company and the law

If you're a director or secretary of a small company, you must follow the requirements set out in the *Corporations Act 2001* (Corporations Act).

ASIC is the company law watchdog. We've put together this guide to let you know about the most important things the law requires directors and secretaries of small companies to do.

Obviously we can't explain every obligation or cover every situation here. At times you may need professional legal advice.

Even if you appoint an agent to look after the company's affairs, you—not the agent—may still be held responsible for those legal obligations.

What does the law expect of you personally?

As a director, you must:

- be honest and careful in your dealings at all times
- know what your company is doing
- take extra care if your company is operating a business because you may be handling other people's money
- make sure that your company can pay its debts on time
- see that your company keeps proper financial records
- act in the company's best interests, even if this may not be in your own interests, and even though you may have set up the company just for personal or taxation reasons, and
- use any information you get through your position properly and in the best interests of the company. Using that information to gain, directly or indirectly, an advantage for yourself or for any other person, or to harm the company may be a crime or may expose you to other claims. This information need not be confidential; if you use it the wrong way and dishonestly, it may still be a crime.

If you have personal interests that might conflict with your duty as a director, you must generally disclose these at a directors' meeting. This rule does not apply if you are the only director of a proprietary company.

What work must a director do?

You and any other directors will control the company's business. Your company's constitution (if any) or rules may set out the directors' powers and functions.

You must be fully up-to-date on what your company is doing:

- Find out and assess for yourself how any proposed action will affect your company's business performance, especially if it involves a lot of the company's money.
- Get outside professional advice when you need more details to make an informed decision.
- Question managers and staff about how the business is going.
- Take an active part in directors' meetings.

Only be a company director or a company secretary if you are willing, able and have enough time to put in the effort.

Avoid any company where someone offers to make you a director or secretary on the promise that 'you won't have to do anything' and 'just sign here'. You could be exposing yourself to many legal liabilities.

Can you sell shares to the public?

Proprietary companies are generally not allowed to raise money from the public by selling shares. Avoid anything to do with illegal fundraising.

Can anyone be a director or secretary?

You must not act as a director or secretary (or manage a company) without court consent if you:

- are an undischarged bankrupt
- are subject to a personal insolvency agreement or an arrangement under Part X of the *Bankruptcy Act 1966* (Bankruptcy Act) that has not been fully complied with
- are subject to a composition under Part X of the Bankruptcy Act and final payment has not been made, or
- have been convicted of various offences such as fraud or offences under company law, such as a breach of your duties as a director or insolvent trading. If you have been convicted of one of these offences you must not manage a company within five years of your conviction. If imprisoned for one of these offences, you must not manage a company within five years after your release from prison.

If you become bankrupt, enter into a personal insolvency agreement or are convicted of a relevant offence at a time when you're a director or secretary then you automatically lose that office. The company must then notify ASIC that you're no longer a director or secretary of the company. For more information, see Information Sheet 14 *Bankruptcy and personal insolvency agreements* ([INFO 14](#)).

ASIC can also ban you from being a company director in certain situations.

If you're not allowed to be a company director or secretary, you're not allowed to manage a company. It is a serious offence to set up dummy directors while you really manage the company.

Directors must also be 18 years or older.

What happens to dishonest directors?

Every year, the courts send dishonest and reckless company officers to prison, and impose heavy fines and award damages.

As the company watchdog, we investigate corporate crime. **You can report dishonest company directors to us.** We may take a number of steps against directors who fail in their duties.

What company records must you keep?

As a director, the law makes you personally responsible for keeping proper company records.

You must see that the company keeps up-to-date financial records that:

- correctly record and explain its transactions (including any transactions as a trustee), and
- explain the company's financial position and performance.

All companies must have financial records so that:

- true and fair financial statements of the company can be prepared if needed
- financial statements can be conveniently and properly audited if necessary, and
- the company can obey the tax laws.

If your company is a 'small proprietary company' or a small company limited by guarantee (as defined in the Corporations Act), it will generally not have to prepare formal financial reports under that Act each year and lodge them with ASIC.

However, you must still keep financial records, and may need financial reports for managing and monitoring your company's financial position and performance for tax purposes or for raising finance.

In most cases, large proprietary and public companies—even not-for-profit public companies—will have to prepare financial reports, have them audited and lodge them with ASIC.

Some public companies limited by guarantee are exempt from these financial reporting obligations and others have reduced auditing and reporting obligations. For more details on the obligations of limited by guarantee companies, see Information Sheet 131 *Companies limited by guarantee—simplified obligations* ([INFO 131](#)).

What are financial records?

Below are some of the basic financial records that the law may require a company to keep:

- general ledger, recording all the company's transactions and balances (e.g. revenue, expenses, assets, liabilities) or summarising transactions and balances detailed in other records
- cash records (e.g. bank statements, deposit books, cheque butts, petty cash records)
- debtor and sales records (e.g. a list of debtors and their balances, delivery dockets, invoices and statements issued, a list of all sales transactions)
- creditor and purchases records (e.g. purchase orders, invoices and statements received and paid, unpaid invoices, a list of all purchases, a list of all creditors and their balances)
- wage and superannuation records
- a register of property, plant and equipment showing transactions and balances in relation to individual items
- inventory records

- investment records (e.g. contract notes, dividend or interest notices, certificates)
- tax returns and calculations (e.g. income tax, group tax, fringe benefits tax and GST returns and statements), and
- deeds, contracts and agreements.

A company would also normally prepare the following statements regularly (e.g. monthly) to manage its business performance and provide to lenders:

- *Statement of Financial Performance*: a statement showing the company's revenue and expenses and the profit or loss that results from these items
- *Statement of Financial Position*: a statement showing the things of value the company owns and the debts the company owes, and
- *Statement of Cash Flows*: a statement summarising cash inflows and outflows.

Get professional advice if you have any doubt about the content or type of financial records to keep. The lists above give examples only, because the financial records you need will vary from company to company.

You may keep some financial records electronically, but you must be able to convert them into hard copy so that you can give them to anyone entitled to inspect them. Make backup copies of electronic records regularly (e.g. weekly or daily).

See also Information Sheet 76 *What books and records should my company keep?* ([INFO 76](#)).

Your company must also keep some other basic records: see 'Company housekeeping: other records and registers' for more details.

Company housekeeping: Other records and registers

All company officers must make sure that the company attends to some basic 'housekeeping' matters. The directors remain ultimately responsible for the company's compliance with the Corporations Act.

When a company is set up, you must:

- register your company name with ASIC and obtain an [Australian Company Number \(ACN\)](#)
- have a registered office. (If your company doesn't occupy the same address as the registered office, then you must have written consent from the person who occupies the registered office.)

Make sure that you:

- display the company name at every place at which your company carries on business and that is open to the public. Also, a public company must display its name and the words 'registered office' prominently at its registered office.
- display the company name, the words 'Australian Company Number' (or 'ACN') or 'Australian Business Number' (or 'ABN') and the relevant number on:
 1. the common seal (if the company has one)
 2. every public document of the company

3. every negotiable instrument (e.g. cheque, promissory note) of the company, and
4. all documents lodged with ASIC.

Your company must keep:

- registers of members (shareholders)
- registers of option holders (if you have them)
- minutes of general meetings
- minutes of meetings of directors
- registers of charges created by the company over company property (s271 of the Corporations Act was removed from registration under the *Personal Property Securities Act 2009*. You are required to have this register and make entries up until this point in time), and
- financial records that enable an assessment of the company's financial position and performance and are sufficient for financial statements to be prepared (and audited if necessary) for at least seven years after the transactions are completed.

For more about the ASIC forms your company must lodge, see Information Sheet 20 *Checklist for registered companies and their officers* ([INFO 20](#)).

Your annual statement

Each year within a few days after your company's review date (usually the anniversary of your company's registration) we will send your company an annual statement to one of the following:

- your electronic inbox if you have registered to use our electronic lodgement systems
- the address of your registered agent if you have appointed one
- your nominated mailing address if you aren't registered to use our electronic lodgement systems, or
- your company's registered office address if none of the above apply.

If you have not received your annual statement within five days after the review date, you should contact us.

Check your annual statement

The annual statement sets out the company's details recorded in ASIC's register, such as the names and addresses of its directors and secretary, registered office, principal place of business, ultimate holding company (if any), share details and members' details (members' names and addresses only apply to proprietary companies)..

If these details are correct and no other changes have occurred that require you to notify ASIC, then within two months after the review date:

- you need to pay the annual review fee shown in the invoice that accompanies the annual statement,

and

- the director(s) need to pass a solvency resolution.

If any details on the statement are no longer correct, you must update them using [Form 484 Change to company details](#). You have 28 days from the statement's issue date to lodge the form.

We may also require information to be lodged (e.g. where we notice that data is missing).

Pay fees

To avoid the payment of late fees or other non-compliance action you must:

- pay the annual review fee within two months after the review date
- lodge Form 484 to update your company's details if they change during the year, within 28 days after the change, and
- lodge Form 484 (if required) to update your company's details, within 28 days after your annual statement's issue date.

For more information, see Information Sheet 3 *Annual statements and late fees* ([INFO 3](#)).

Pass a solvency resolution

The company's directors must pass a solvency resolution within two months after the company's review date, unless the company has lodged a financial report with ASIC within 12 months before the review date.

A **positive** solvency resolution means that the directors think that there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable. You don't have to lodge notification of a positive solvency resolution with ASIC, but you must pay the company's annual review fee. Payment of the fee is taken to be a representation by the directors that the company is solvent.

A **negative** solvency resolution means that the directors think that there are not reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable. If the directors pass a negative solvency resolution ASIC must be notified using [Form 485 Statement in relation to company solvency](#) within seven days after the resolution has been passed.

If the directors don't pass a solvency resolution within two months after the company's review date, ASIC must be notified using Form 485 within seven days after the end of the two-month period following the review date.

Keep us informed of changes in your company's details

Some of the more common things you must tell us are set out in the following table. The Corporations Act requires you to tell us about these changes within a certain time period. If you tell us after this time, you may have to pay a late fee.

Type of activity or duty		Form
Change place you keep registers	If you want to keep registers of shares, options or charges at an address other than the company's registered office or principal place of business, you must tell us where they are being kept within seven days after the change.	909
Change of officeholders	If the officeholders (e.g. director, secretary or alternate director) of the company change, or if any personal details change, such as their	484

or details of officeholders	residential address, you must tell us within 28 days after the change. You must also lodge the terms of appointment when appointing an alternate director.	
Resignation of director or secretary	A director or secretary can tell us directly if they retire or resign. A copy of their letter of retirement or resignation from the company must be submitted with the form.	370
Change of registered office	If you change the company's registered office or principal place of business, you must tell us within 28 days after the change.	484
Change of company name	If the company has resolved to change its name, you must tell us within 14 days after the resolution was passed. (New names are subject to availability criteria.)	205
Issue of new shares	If you issue new shares, you must tell us within 28 days from the date of issue.	484
Change to members (shareholders)	Proprietary companies must advise us within 28 days of changes to the top 20 members in each class of share held. Such changes include changes of name and address, increase or decrease in shares held and cessation of membership.	484
Changes to ultimate holding company	Proprietary companies must advise us within 28 days following changes to their ultimate holding company.	484
Division or conversion of shares	If you divide or convert shares into different classes, you must tell us within 14 days from the date of the division or conversion.	211
Negative solvency resolution	You must notify us of a negative solvency resolution within seven days after the resolution is passed.	485
Solvency resolution not passed	If no solvency resolution is passed within two months after the review date you must notify us within seven days after that period.	485
Change of company review date	You may apply to change your company's review date if it is considered unsuitable. You must, however, be able to satisfy certain conditions to have the review date varied.	488

How do you get the information to us?

If you are a director or secretary of a company you can tell us about most changes to your company's details using our [online service](#).

Alternatively, if you lodge documents on behalf of a number of companies, you can lodge them electronically using our [EDGE service](#) which uses compliant software..

By lodging electronically you will:

- [save time](#)

- [have your information processed immediately, and](#)
- [quickly meet your legal obligations.](#)

You may also lodge the changes on a paper form. These forms can be downloaded from our website or obtained by calling us on 1300 300 630 or visiting an ASIC Service Centre or an ASIC Local Representative. Single or bulk forms are also available from some law stationers.

If you use a lot of forms, interactive software is available, such as 'ASIC Forms on CD-ROM'.

We also list the fees you must pay for lodging some forms on our website.

Send the completed form and fee (where applicable) to:

[Australian Securities & Investments Commission \(ASIC\)](#)
[PO Box 4000](#)
[Gippsland Mail Centre VIC 3841](#)

[What if your company can't pay its debts?](#)

You must ensure that your company is able to pay all of its debts as and when they become due for payment. A company is 'insolvent' if it cannot pay all of its debts as they become due and payable.

By law, you must prevent your company from incurring a debt when it is insolvent or about to become so. This means you must consider whether you have reasonable grounds to believe that the company will be able to pay a new debt when it becomes due, as well as pay all the other debts.

You may expose yourself to criminal prosecution, substantial fines or to action by a liquidator, creditors of the company or ASIC to recover amounts lost by creditors due to your actions.

Your personal assets—not just your company's—may be at risk.

Common signs of financial trouble are:

- [low operating profits or cash flow from the main business](#)
- [problems paying trade suppliers and other creditors on time](#)
- [trade suppliers refusing to extend further credit to the company](#)
- [problems with meeting loan repayments on time or difficulty in keeping within overdraft limits, and](#)
- [legal action taken, or threatened, by trade suppliers or other creditors over money owed to them.](#)

If your company is in financial difficulty or in danger of being insolvent, seek immediate advice from an insolvency professional. They will be able to explain your options to you. Your options may include re-structuring your company's affairs, changing your company's activities or appointing a voluntary administrator or liquidator to the company.

Do not assume that you will be able to trade out of the problem. Delay could be damaging to the company and to you personally, and may reduce the options available.

[How do you close down your company?](#)

You can apply to have the company deregistered, if certain conditions are met, using [Form 6010 Application for voluntary deregistration of a company](#).

The conditions are that the company:

- is not carrying on business
- has assets of less than \$1000
- has paid all its fees and penalties under the Corporations Act
- has no outstanding liabilities
- is not a party to any legal proceedings, and
- all its members have agreed to the deregistration.

If these conditions are not met, the process is more complex and you'll need the help of a professional adviser.

What can you find out about other companies?

See Information Sheet 26 *Dealing with businesses and companies: How to avoid being swindled* ([INFO 26](#)) for tips on avoiding shonky operators and fly-by-night companies.

You can find out more about a company you are dealing with by checking its identity to make sure that it really exists. [You can check its status and see what forms it has lodged](#)..

Tell us if you think another company is trading while it can't pay its debts. We may not be able to investigate everything, but we do keep detailed records of all complaints and may take action if we have evidence of serious wrongdoing. Tell us if you think that a company director is acting dishonestly.

A final word and to find out more

Finally, you are unlikely to get into trouble if you:

- are honest and careful in dealing with the company and on its behalf with others
- understand your legal obligations and make compliance with them part of your business
- keep informed about your company's financial position and performance
- get professional advice or more information when you are in doubt, and
- give the interests of the company, its shareholders and its creditors top priority.

For more information

For more about running your company, visit www.asic.gov.au/companies.

Contact ASIC on 1300 300 630 or make an enquiry at www.asic.gov.au/question.

This is **Information Sheet 79 (INFO 79)**. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.