APPENDIX 1

(NOTE The continuous disclosure provisions shown below were in effect at the time of this study. They are followed in this Appendix by the replacement Chapter 6CA ss674-678 inserted by Schedule 2 to the Financial Services Reform Act 2001 from 11 March 2002.)

Corporations Act – Ch 7 - Pt 7.11 – Div 2 – Prohibited Conduct

SECTION 1001A CONTINUOUS DISCLOSURE – LISTED DISCLOSING ENTITIES

1001A(1) [Listing rules require disclosure] This section applies to a listed disclosing entity if provisions of the listing rules of a securities exchange:

(a) apply to the entity; and

(b) require the entity to notify the securities exchange of information about specified events or matters as they arise for the purpose of the securities exchange making that information available to a stock market conducted by the securities exchange.

History S 1001A(1) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

1001A(2) [Contravention of disclosure rules] The disclosing entity must not contravene those provisions by intentionally, recklessly or negligently failing to notify the securities exchange of information:

(a) that is not generally available; and

(b) that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of ED securities of the entity.

History S 1001A(2) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

1001A(3) [When contravention an offence] A contravention of subsection (2) is only an offence if the failure concerned is intentional or reckless.

History S 1001A(3) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

1001A(4) [Obligation of management company] For the purposes of the application of this section to a listed disclosing entity that is an undertaking to which interests in a registered scheme relate, the obligation of the entity not to contravene provisions as mentioned in subsection (2) is an obligation of the responsible entity.

SECTION 1001B CONTINUOUS DISCLOSURE – UNLISTED DISCLOSING ENTITIES

1001B(1) [Information having material effect on price] If:

(a) an unlisted disclosing entity becomes aware of information:

(i) that is not generally available; and

(ii) that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of ED securities of the entity; and

(b) the information is not required to be included in a supplementary disclosure document or a replacement disclosure document in relation to the entity;

the entity must, as soon as practicable, lodge a document containing the information.


1001B(2) [Contravention] An unlisted disclosing entity does not contravene subsection (1) except by an intentional, reckless or negligent act or omission.

History S 1001B(2) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

1001B(3) [When contravention an offence] A contravention of subsection (1) is only an offence if the failure concerned is intentional or reckless.

History S 1001B(3) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

1001B(4) [Management company] For the purposes of the application of this section to an unlisted disclosing entity that is an undertaking to which interests in a registered scheme relate:

(a) the entity is aware of information if, and only if, the responsible entity is aware of the information; and

(b) the obligation of the entity to lodge a document under subsection (1) is an obligation of the responsible entity; and

(c) subsection (2) applies as if the reference in it to an unlisted disclosing entity were instead a reference to the responsible entity.

SECTION 1001C SECTIONS 1001A AND 1001B – WHEN INFORMATION IS GENERALLY AVAILABLE

1001C(1) [Sec 1001A and 1001B] This section has effect for the purposes of sections 1001A and 1001B.

History S 1001C(1) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

1001C(2) [Primary information] Information is generally available if:

(a) it consists of readily observable matter; or

(b) without limiting the generality of paragraph (a), both the following subparagraphs apply:

(i) it has been made known in a manner that would, or would be likely to bring it to the attention of persons who commonly invest in securities of a kind whose price or value might be affected by the information; and

(ii) since it was so made known, a reasonable period for it to be disseminated among such persons has elapsed.

History S 1001C(2) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

1001C(3) [Derived information] Information is also generally available if it consists of deductions, conclusions or inferences made or drawn from either or both of the following:

(a) information referred to in paragraph (2)(a);

(b) information made known as mentioned in subparagraph (2)(b)(i).

History S 1001C(3) inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

SECTION 1001D SECTIONS 1001A AND 1001B – MATERIAL EFFECT ON PRICE OR VALUE

1001D For the purposes of sections 1001A and 1001B, a reasonable person would be taken to expect information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell, the first-mentioned securities.

History S 1001D inserted by No 31 of 1994, Sch 1, Pt 1 (effective 4 September 1994).

(CCH Australia Limited Australian Corporations & Securities Legislation 2001)
APPENDIX 2
ASX LISTING RULES
30 September 2001
Chapter 3
Continuous Disclosure

Explanatory note

This chapter sets out the continuous disclosure requirements that an entity must satisfy. Continuous disclosure is the timely advising of information to keep the market informed of events and developments as they occur. Information for release to the market must be given to ASX’s company announcements office.

Entities should note chapter 4, which deals with periodic disclosure, and chapter 5, which deals with additional reporting requirements for mining entities and others. Chapter 15 sets out where the draft and final documents must be lodged.

ASX has issued a Guidance Note on continuous disclosure.

Immediate notice of material information

General rule

3.1 Once an entity is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity’s securities, the entity must immediately tell ASX that information. This rule does not apply to particular information while each of the following applies.

Note: Section 1001D of the Corporations Law defines material effect on price or value. As at 1/7/96 it said for the purpose of section 1001A a reasonable person would be taken to expect information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, or buy or sell, the first-mentioned securities.

3.1.1 A reasonable person would not expect the information to be disclosed.

3.1.2 The information is confidential.

3.1.3 One or more of the following applies.

(a) It would be a breach of a law to disclose the information.

(b) The information concerns an incomplete proposal or negotiation.

(c) The information comprises matters of supposition or is insufficiently definite to warrant disclosure.

(d) The information is generated for the internal management purposes of the entity.

(e) The information is a trade secret.

Examples: The following information would require disclosure if material under this rule:

- a change in the entity’s financial forecast or expectation.
- the appointment of a receiver, manager, liquidator or administrator in respect of any loan, trade credit, trade debt, borrowing or securities held by it or any of its child entities.
- a transaction for which the consideration payable or receivable is a significant proportion of the written down value of the entity’s consolidated assets. Normally, an amount of 5% or more would be significant, but a smaller amount may be significant in a particular case.
- a change in the control of the responsible entity, management company or the trustee of a trust.
- a proposed change in the general character or nature of a trust.
- a recommendation or declaration of a dividend or distribution.
- a recommendation or decision that a dividend or distribution will not be declared.
- under subscriptions or over subscriptions to an issue.
- a copy of a document containing market sensitive information that the entity lodges with an overseas stock exchange or other regulator which is available to the public. The copy given to ASX must be in English.
- an agreement or option to acquire an interest in a mining tenement, including the number of tenements, a summary of previous exploration activity and expenditure, where the tenements are situated, the identity of the vendor and the consideration for the tenements. Cross reference: Appendix 5B, which requires this information quarterly, regardless of disclosure because of its materiality.
- information about the beneficial ownership of shares obtained under Part 6C.2 of the Corporations Act.
- giving or receiving a notice of intention to make a takeover.
- an agreement between the entity (or a related party or subsidiary) and a director (or a related party of the director).


- a copy of any financial documents that the entity lodges with an overseas stock exchange or other regulator which is available to the public. The copy given to ASX must be in English.