

COVID-19 financial reporting deadlines

Reporting Update

16 September 2020, 20RU-019



1 month extension

Current state of play

Highlights

- In summary
- Financial reporting deadlines
- Annual General Meetings (AGMs)

In summary

In mid-May 2020 ASIC **extended** the deadline for both **listed and unlisted** entities to lodge financial reports under the *Corporations Act 2001* (Corps Act) by one month for balance dates up to and including 7 July 2020.

On 3 June 2020 the ASX granted an [equivalent class waiver](#) to listed entities to enable them to take advantage of the deadline extension for lodging full year and half-year financial reports provided by ASIC for balance dates up to and including 7 July 2020. The waiver imposes some additional conditions to ASIC’s relief. The [waiver](#) was updated on 16 June 2020 to extend the relief to other documents that accompany the ‘annual accounts’ – for example, the Directors’ report.

The ASIC relief does not apply to registered foreign companies.

Both ASIC and the ASX are still encouraging entities to lodge within the normal statutory deadlines, having regard to the information needs of shareholders, creditors and other users of their financial reports.

ASIC has advised that it will continue to monitor market conditions and COVID-19 and may issue updated guidance in the future.

The following table is the current state of play:

| Entities reporting to ASIC | Balance dates up to 7 July 2020 | Balance dates after 7 July 2020 |
|--|---|--|
| Listed entities* | 1 month extension [^] (i.e. 3 months to 4 months) | No announcement – ongoing monitoring by ASIC |
| Unlisted disclosing entities and unlisted registered schemes | 1 month extension [@] (i.e. 3 months to 4 months) | No announcement – ongoing monitoring by ASIC |
| Other unlisted entities | 1 month extension [@] (i.e. 4 months to 5 months) | No announcement – ongoing monitoring by ASIC |

* ASX has set out some additional conditions, to the ASIC relief, that must be satisfied (refer discussion below)

[^] Entities with balance dates before 21 February 2020 will not receive the one month extension (refer discussion below)

[@] Entities with balance dates before 31 December 2019 will not receive the one month extension (refer discussion below)

In all cases entities may apply for individual relief, with ASIC, for extending a financial reporting deadline

Financial reporting deadlines

Listed entities

ASIC

1 month extension

Listed entities will be able to take one additional month to report for full year and half-year financial reports for 21 February 2020 to 7 July 2020 balance dates. The 7 July 2020 date accommodates entities that use a provision in the Corps Act that allows their financial year to be changed by plus or minus 7 days each year.

This relief has been set out in *ASIC Corporations (Extended Reporting and Lodgement Deadlines – Listed Entities) Instrument 2020/451* (AI 2020/451) and was registered on 20 May 2020.

Inform market

Listed entities will be required to inform the market when they rely on the extended period for lodgement. These entities may also find it desirable to explain the reasons for relying on the extended deadlines.

ASX

1 month extension

On 3 June 2020 the ASX granted an [equivalent class waiver](#) to listed entities to enable them to take advantage of the deadline extension for lodging full year and half-year financial reports provided by ASIC in AI 2020/451. The [waiver](#) was updated on 16 June 2020 to extend the relief to other documents that accompany the 'annual accounts' – for example, the Directors' report.

Under the waiver if the audited or reviewed half-year accounts or the full year accounts are ready, prior to the extended deadline, they must be given to the ASX.

Conditions

The waiver has a number of conditions that must be satisfied:

- Listed entities will need to lodge their Appendix 4D and 4E under the ASX Listing Rules by the due date (for example, 31 August 2020 for 30 June 2020 full year ends). If the entity does not have audited or reviewed financial statements by that date to append to its Appendix 4D or 4E, it will need to lodge unaudited or unreviewed financial statements with its Appendix 4D or 4E.
- At the time of lodging the Appendix 4D or 4E the entity must make an announcement to the market that details the following:
 - that the entity is relying on AI 2020/451 to extend the lodgement date for the half-year or full year report
 - an explanation of the reason for relying on AI 2020/451
 - that the entity will immediately make a further announcement to the market if it becomes aware that there will be a material difference between its:
 - ❖ unaudited or unreviewed half-year accounts and the audited or reviewed half-year accounts, or
 - ❖ the unaudited full year accounts and the audited full year accounts.

Timely information

The objective of the above conditions is to ensure that the market continues to receive timely financial information.

Will extension be practical for listed entities?

KPMG comment

“In these times of COVID-19 uncertainty, directors should consider the impact and consequence of lodging financial information that is unaudited or unreviewed. In particular, there will be an increase in the number of critical judgements and estimates in preparing financial information. These could be subject to change as the audit process is finalised.”

Michael Voogt

Director, Department of Professional Practice

ASX/NZX dual listed entities

The New Zealand Financial Markets Authority and NZX Regulation announced that they had granted financial reporting class relief, extending the deadlines for filing financial statements and annual reports for NZX listed entities with balance dates between 30 September and 31 July 2020.

1 & 2 month extension

Under the NZX Class Waiver, NZX listed entities will have up to an additional 30 days to prepare and release their results announcements – including preliminary interim and full year financial statements, and up to an additional two months to prepare and release their annual reports.

In May 2020 the [ASX issued a waiver](#) for New Zealand incorporated entities which notes the following:

Foreign exempt listings

- Dual listed ASX/NZX entities admitted to ASX as **Foreign Exempt Listings** are not subject to the ASX reporting requirements in chapter 4 of the ASX listing rules and simply lodge with ASX whatever documents they are required to lodge with the NZX.

These entities automatically qualify for the extension to their filing deadlines under the NZX Class Waiver without needing to do anything under the ASX listing rules.

Standard ASX listings

- Dual listed ASX/NZX entities admitted to ASX as **standard ASX Listings** are ordinarily subject to the ASX reporting requirements and deadlines in chapter 4 of the ASX Listing rules.

To facilitate the operation of the NZX Class Waiver, ASX has granted an equivalent class waiver to dual listed ASX/NZX entities incorporated in New Zealand and admitted to ASX as a standard ASX Listing, extending the reporting deadlines to the substituted deadlines provided in the NZX Class Waiver.

Other relief and reminders

In a [Compliance Update](#) (31 March 2020) the ASX discussed a number of other topics which are outlined in [Appendix 2](#).

Unlisted entities

1 month extension

Unlisted entities (reporting under Chapters 2M and 7 of the Corps Act) will now be able to take one additional month to lodge financial reports for year ends from 31 December 2019 to 7 July 2020.

Grandfathered proprietary companies

Where a grandfathered proprietary company uses the extended deadline relief, it will continue to retain its grandfathered status. The directors' report must disclose that the company has applied ASIC relief to report to members no later than one month after the normal reporting deadline.

Apply before deadline

Other requirements

Effective cut-off point

What if an entity needs more than the one month extension?

ASIC consider timely reporting by entities is important, however ASIC will consider applications to extend the reporting deadline for individual entities in appropriate circumstances. Where possible, any applications should be made at least 14 days before the normal reporting deadline. Applications should include sufficient information for ASIC to assess the impact of market conditions and COVID-19 developments.

KPMG comment

“Before taking the one month extension offered entities should consider other contractual obligations which may require financial statements to be made available. For example, borrowing covenants which require the financial report by a prescribed deadline.”

Michael Voogt
Director, Department of Professional Practice

Further details on the ASIC one month extension can be found in the [Appendix 1](#).

ASIC Instrument

In mid-May 2020 ASIC issued a further [media release](#) (20-113MR) where they have advised that the extended deadlines for both listed and unlisted entities only applies where the normal reporting deadline for the entity has **not** already passed at the time that the relevant instrument of relief was registered.

For example:

- For a listed entity with a 31 January 2020 year end, the normal deadline is 30 April 2020 and the extended deadline would be 31 May 2020. The normal deadline (30 April 2020) will be after the expected date of the relevant instruments registration – as such this entity **will not** be able to take advantage of the one month deadline extension. (See **Note 1** below)
- For a listed entity with a 31 March 2020 year end, the normal deadline is 30 June 2020 and the extended deadline would be 31 July 2020. The normal deadline (30 June 2020) is after the expected date of the relevant instruments registration – as such this entity **will** be able to take advantage of the one month deadline extension.
- For an unlisted entity with a 31 December 2019 year end, the normal deadline is 30 April 2020 and the extended deadline would be 31 May 2020. The normal deadline (30 April 2020) is after the date that *ASIC Corporations (Extended Reporting and Lodgement Deadlines – Unlisted Entities) Instrument 2020/395* (AI 2020/395) was registered – as such this entity **will** be able to take advantage of the one month deadline extension. (See **Note 2** below)

Note 1

Given the timing around the latest ASIC media release (20-113MR) the effective cut-off date is for periods ending on 20 February 2020 – as the normal deadline would be 20 May 2020 which is the day that AI 2020/451 was registered.

Note 2

In AI 2020/395, ASIC have provided an extension of the deadlines for unlisted entities **only** to lodge financial reports by one month for balance dates from 31 December 2019 to 31 March 2020. When combined with this updated ASIC relief (20-113MR) it means that for unlisted entities it applies for balance dates from 31 December 2019 to 7 July 2020.

Consequential amendments to other ASIC Instruments

ASIC has also issued *ASIC Corporations (Amendment) Instrument 2020/452* (AI 2020/452) which makes amendment to the following existing ASIC Instruments:

- *ASIC Corporations (Exempt Proprietary Companies) Instrument 2015/840*
– preserves the grandfathered status for certain proprietary companies that use the one month deadline extension to lodge financial reports
- *ASIC Corporations (Disregarding Technical Relief) Instrument 2016/73*
– so that issuers of continuously quoted securities that use the extended reporting deadlines do not lose the ability to use reduced fundraising disclosures
- *ASIC Corporations (Wholly Owned Companies) Instrument 2016/785*
– enables the head entity to be able to take advantage of the one month financial reporting extension so that wholly-owned entities under a deed of cross guarantee continue to be relieved from lodging financial reports
- AI 2020/395
– extends the timing of balance dates from 31 March to 7 July 2020.

The above amendments were necessary in order for the impacted entities to take advantage of the one month financial reporting extension.

Reporting periods ending after 7 July 2020

ASIC continues to assess the impact on financial reporting for balance dates after 7 July 2020. ASIC is also carefully monitoring how market conditions and COVID-19 developments are affecting financial reporting and AGM obligations for entities. ASIC may make further announcements on these matters depending on market developments.

We will communicate any changes in the guidance issued by both ASIC and ASX as it comes to hand. So watch this space!

Annual General Meetings (AGMs)

Public companies (listed and unlisted) are generally required to hold an AGM within five months of the end of the relevant financial year.

No action

In 20-113MR ASIC has advised that it will adopt a 'no action' position where public companies do not hold their AGMs within five months after the end of financial years that end from 31 December 2019 to 7 July 2020, but do so up to seven months after year end. That is, a two month extension.

ASIC's 'no action' position also allows additional time for distribution of financial reports to members prior to the AGM for those public companies that have relied on the extension of time for lodgement of financial reports.

For public companies with 1 June 2020 to 7 July 2020 year ends, the 'no action' position also applies where holding an AGM in January or February 2021 results in the requirement to hold an AGM in the 2020 calendar year not being met.

Continue to monitor

2 month extension

'No action' is not a formal extension of time under the Corps Act. Instead it means that ASIC will not take action against the entity in failing to comply with Section 250N(2) of the Corps Act – provided the entity holds the AGM within seven months after year end.

KPMG comment

“Entities should also consider the requirements to hold AGMs under their constitutions and seek legal advice if needed.”

Michael Voogt
Director, Department of Professional Practice

Hybrid/virtual AGMs

Some entities may wish to hold their AGM using technology instead of traditional physical meetings given COVID-19 restrictions. This could take the form of online meetings (virtual) or physical and online meetings (hybrid).

ASIC considers that hybrid AGMs are permitted under the Corps Act but entities need to check whether their constitution restricts meetings being held in this way.

The Treasurer issued a determination amending the Corps Act for six months from 6 May 2020 which facilitates meetings, including AGMs, being held using one or more technologies (virtual technology) that give all persons entitled to attend a reasonable opportunity to participate without being physically present in the same place (see the [Corporations \(Coronavirus Economic Response\) Determination \(No. 1\) 2020](#)).

The Treasurer of the Commonwealth of Australia in a [media release](#) dated 31 July 2020 has indicated that the above relief will be extended for a further six months – that is, it will expire on 21 March 2021.

To assist companies and responsible entities, ASIC has issued [guidance](#) setting out its views on the appropriate approach to calling and holding meetings using virtual technology and the requirements of the determination.

Consider constitution

Physical meeting COVID-19 restrictions

Consider entity constitution

Amendment to Corps Act

Appendix 1

Further detail from 20-113MR

Full years

| Entities reporting to ASIC (full financial years) | Balance dates up to 7 July 2020 | Balance dates after 7 July 2020 |
|---|---|--|
| Listed entities* | 1 month extension [^] (i.e. 3 months to 4 months) | No announcement – ongoing monitoring by ASIC |
| Unlisted disclosing entities and unlisted registered schemes [#] | 1 month extension [@] (i.e. 3 months to 4 months) | No announcement – ongoing monitoring by ASIC |
| Other unlisted entities (public and proprietary companies that are not disclosing entities or registered schemes) | 1 month extension [@] (i.e. 4 months to 5 months) | No announcement – ongoing monitoring by ASIC |

* ASX has set out some additional conditions, to the ASIC relief, that must be satisfied (refer discussion earlier)

[^] Entities with balance dates before 21 February 2020 will not receive the one month extension (refer discussion earlier)

[#] Deadline for lodgement of compliance plan audit reports extended from 3 months to 4 months

[@] Entities with balance dates before 31 December 2019 will not receive the one month extension (refer discussion earlier)

In all cases entities may apply for individual relief, with ASIC, for extending a financial reporting deadline

Under Chapter 2M the deadline for lodgement of full year financial reports, directors' reports and auditor's reports for:

- (a) listed entities is extended from 3 to 4 months
- (b) unlisted disclosing entities and for unlisted registered schemes, is extended from 3 to 4 months
- (c) all other unlisted entities is extended from 4 to 5 months (will apply to public and proprietary companies that are not disclosing entities or registered schemes).

Note: an extension of the deadline for unlisted registered schemes to lodge compliance plan audit reports will automatically occur as a result of the extension for registered schemes. The period for auditors to complete the compliance plan audit report will be extended from 3 to 4 months.

For example, the normal deadline for an unlisted public company that is not a disclosing entity to lodge its reports for the year ended 30 June 2020 is 31 October 2020 and the extended deadline will be 30 November 2020.

Further detail from 20-113MR

Half-years

| Entities reporting to ASIC (half-years) | Half-year balance dates up to 7 July 2020 | Half-year balance dates after 7 July 2020 |
|---|--|--|
| Listed entities* | 1 month extension [^] (i.e. 75 days to 75 days + 1 month) | No announcement – ongoing monitoring by ASIC |
| Unlisted disclosing entities and unlisted registered schemes (that are disclosing entities) | 1 month extension [@] (i.e. 75 days to 75 days + 1 month) | No announcement – ongoing monitoring by ASIC |

* ASX has set out some additional conditions, to the ASIC relief, that must be satisfied (refer discussion earlier)

[^] Entities with half-year balance dates before 21 February 2020 will not receive the one month extension (refer discussion earlier)

[@] Entities with half years before 31 December 2019 will not receive the one month extension (refer discussion earlier)

In all cases entities may apply for individual relief, with ASIC, for extending a financial reporting deadline

Under Chapter 2M the deadline for lodgement of half-year financial reports, directors' reports and audit/review reports for unlisted disclosing entities (including unlisted registered schemes that are disclosing entities) is extended from 75 days to 75 days plus 1 month.

Further detail from 20-113MR

Australian Financial Services (AFS) licensees

| Entities reporting to ASIC (Unlisted AFS licensees) | Balance dates up to 7 July 2020 | Balance dates after 7 July 2020 |
|---|---|--|
| Body corporate + disclosing entity or registered scheme | 1 month extension [^] (i.e. 3 months to 4 months) | No announcement – ongoing monitoring by ASIC |
| Body corporate + <u>not</u> disclosing entity or registered scheme | 1 month extension [^] (i.e. 4 months to 5 months) | No announcement – ongoing monitoring by ASIC |
| Not body corporate | 1 month extension [^] (i.e. 2 months to 3 months) | No announcement – ongoing monitoring by ASIC |

[^] Entities with balance dates before 31 December 2019 will not receive the one month extension (refer discussion earlier)

In all cases entities may apply for individual relief, with ASIC, for extending a financial reporting deadline

Under Chapter 7, the deadline for lodgement of profit and loss and balance sheets (and other associated information) for:

- (a) unlisted AFS licensees that are bodies corporate and are also disclosing entities or registered schemes is extended from 3 to 4 months;
- (b) unlisted AFS licensees that are bodies corporates and are not disclosing entities or registered schemes is extended from 4 to 5 months; and

AFS licensees that are not bodies corporate is extended from 2 to 3 months.

Appendix 2

Other topics covered

Other topics covered by the guidance included:

- COVID-19 – **Continuous Disclosure Obligations** – reminders and practical guidance on requirements under listing rule 3.1.
- **The requirement for market announcements to be given to ASX first** – reminder of listing rule 15.7.
- **Temporary emergency capital raising relief** – class waivers to be issued covering back-to-back trading halts, an uplift in the 15% placement capacity rule to 25% and the one-for-one cap on non-renounceable entitlement offers. The class waivers will expire on 31 July 2020.
- **ASIC and ASX guidance on fair treatment in capital raisings** – reminder that directors of listed entities must continue to act in the best interests of the entity.
- **Quarterly reporters** – ASX unlikely to agree to extension for filing of quarterly cash flow or quarterly activity reports, as these are not generally audited or reviewed.
- **Long term suspended entities** – ASX does not propose to change or grant any relief from its long term suspended entity policy introduced on 3 February 2020.
- **Misleading COVID-19 announcements** – ASX will use its powers to suspend trading (pending enquiries) and censure entities that make misleading COVID-19 claims.
- **ASX to consult on CHES replacement implementation timetable** – replanning the implementation timetable due to unfolding COVID-19 pandemic.

Further details on each of the above can be found in the ASX [Compliance Update](#) (31 March 2020).

20RU-019 COVID-19 financial reporting deadlines

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