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ASX GUIDANCE NOTE 8 – NEW REVISIONS TO CONSENSUS ESTIMATES / STALE FORECASTS - TRANSCRIPT

Speakers: Kevin Lewis, Group Executive and Chief Compliance Officer, ASX Limited and Quentin Digby, Partner, Herbert Smith Freehills

Ian Matheson: Thank you very much for joining us for today's webinar. I'm joined here in Sydney by our two presenters, Kevin Lewis, Chief Compliance Officer for ASX, and with him, Quentin Digby, a Partner in the head office advisory team for Herbert Smith Freehills. Both Kevin and Quentin are based in Sydney. Today's webinar, as you know, is related specifically to a topic and subject matter very close to members of AIRA and the investor relations community, that being guidance note 8. And today, specifically, on some recent changes to guidance note 8 which were made around forecasts, stale forecasts impact on consensus, et cetera.

Ian Matheson: Ladies and gentleman, the format of this is that Kevin will speak for about five to 10 minutes, followed by Quentin. Following that, Kevin will speak to a couple of other slides around some other changes to guidance note 9, which I'm sure will be of interest to members as well. And we can then have some further Q&A. I would expect that we won't go for more than 30 to 40 minutes, depending on your questions. But please feel free to lob those questions in to Kevin and/or Quentin as we move through. So, thank you very much for your participation today. I'd like to hand over to Kevin Lewis. Thank you, Kevin.

Kevin Lewis: Thank you, Ian, and welcome, everybody. I thought I'd touch upon first the specific changes that were made to guidance note 8 on the 23rd of August. The changes were made in section 7 which deals with, among other things, earning surprises and the obligations that a listed entity might have when it comes to learn that its earnings differ materially from, for example, consensus estimates. I'll just read through the sections of the guidance note, because I think that's the easiest way to identify the changes.

Kevin Lewis: The first change was made to section 7.3, which deals with, how do you determine whether you've got a market sensitive earning surprise? And that now reads, in the relevant section, "If it is apparent to the entity that the consensus estimate has been distorted by one or more analysts' forecasts, they might use an adjuster consensus estimate that excludes the forecast in question. This might be the case if, for example, a forecast, A. does not reflect a material announcement or the most recent financial statements published by the entity, and is therefore materially out of date. B. contains a manifest error or, C. is a clear outlier that is materially out of line with the entity's internal forecast and other analysts' forecasts. Note that while it is acceptable for an entity in its internal assessment of the market's expectations for its earnings, and whether it has a disclosure obligation in relation to a potential earning surprise, to exclude an analyst's forecast that is distorting the consensus estimate, additional considerations will come into play if the entity decides to publish analysts' forecast or consensus estimates."

Kevin Lewis: That then leads over to the second change which was section 7.5, which deals with publishing analysts' forecast or consensus estimates. The relevant passage there now reads, "Generally, it is best if an entity publishing information about analysts' forecasts on its website or in a market announcement includes all analysts known to cover its securities. If the entity excludes a particular analyst's forecast from the published information, that fact should be clearly disclosed in the published information, along with an acceptable explanation as to why it has been excluded. Examples of acceptable explanations for excluding an analyst's forecast include, the forecast does not reflect the material announcement or the most recent financial statements published by the entity, and is therefore materially out of date, or it contains a manifest error."

Kevin Lewis: "An unacceptable explanation for excluding an analyst's forecast would be a bare statement that the entity regards the forecast as an outlier. This explanation carries with it an inference that the entity considers the forecast to be materially out of line with other analysts' forecasts and the entity's internal forecast. As such, it substantially increases the risk that the published information could be regarded as defacto earnings guidance."

Kevin Lewis: The real emphasis in the changes is around out-of-date analyst's forecasts, analyst's forecast that contain a manifest error. And then you've got also some guidance around outliers. And just to explain why we've drawn that distinction in 7.3 and 7.5 around your internal calculations versus external publication. If you exclude an analyst's forecast from a published title of analysts' forecasts or from your published calculation of consensus simply because you consider the forecast to be an outlier, that presents the following difficulty: to avoid misleading readers, you need to disclose that you'd excluded the outlier. However, by disclosing that you'd excluded the outlier you're effectively indicating that the excluded forecast is a significant distance from, and by necessary implication, that the forecasts not excluded, are much closer to your own internal earnings projections. And that then runs a risk of, as said in the text, of being seen as defacto guidance.

Kevin Lewis: Now, there were some other changes made to guidance note 8 that weren't terribly material for those people on the phone. We did fix up annexure B to guidance note 8 that has a description of corporations act issues around disclosure and directors duties and so on. And, of course, there were some pretty significant changes to penalties for breaching those provisions enacted earlier this year in the Treasury Laws Amendment, Strengthening Corporate and Financial Sector Penalties Act of 2019, and that's all been reflected through into annexure B of guidance note 8. So, if there's no questions on that, I think I'll just quickly turn it over to Quentin to talk about some of the practical ramifications of those changes.

Quentin Digby: Yeah, thanks, Kevin. Really just to get that in a nutshell, ASX has, through the guidance note, made it absolutely clear that for your own internal consensus analysis, and in determining whether you think the market has expectations in line with your own expectations around how things are traveling, you can exclude outliers. But you're not then in a position to either talk with analysts or with the media, and I'll come back to why you might do that, around that internal consensus analysis. Because what you have done is excluded the outlier, and you would need to be clear in any publication how you'd come to that. Which brings up the same issues that Kevin's talked through.

Quentin Digby: The difficultly that gives rise to, and this is not avoidable, but I will talk about a different approach which could still conceivably be done, is that your ability to publish consensus will depend upon your own internal consensus analysis being pretty close to what you would get if you included all analysts. Because you would not feel comfortable going out with a forecast or consensus estimate which actually is not in line with the same estimate that you're using for your own assessment as to whether you've got a need to update the market. So, people just have to be alive to that difference.

Quentin Digby: The one thing that I would say is, a lot of this is around ensuring that you don't however send defacto guidance, or otherwise mislead the market. And therein lies the concern about people cherry-picking analysts or using consensus in a way that is meant to signal to other analysts to fall into line.

Quentin Digby: If, as a matter of fact, the company in its own internal analysis, for example, really just picks up five or six of the main analysts, and that is what it uses when it's talking to its board around market expectations, and that is what it considers to be a credible indicator of what the market is expecting, then there would be scope without ... and I haven't given Kevin notice of this. But there would be scope as long as you are very clear in your disclosure about the methodology which was included in publishing that.

Quentin Digby: Now, does anybody do that? No, they haven't, and in fact, as Ian knows, the market practice in respect of disclosure of consensus is now pretty limited. Rio does through VUMA. BHP does in certain periods, through VUMA again. But otherwise, people have pulled back. But just remember that the guidance note, while absolutely sensible and useful, it's not law. Nor is ASIC’s indication of needing to include all analyst's law. What the guidance note is trying to do is to ensure that company’s approach this in a way that doesn't potentially put them in a position where they're either misleading the market or providing defacto guidance.

Kevin Lewis: I certainly endorse those comments from Quentin. I mean, with one caveat, and that is, if you pick half a dozen analysts and take that as a representative sample in terms of working out consensus, you can't chop and change with the half a dozen because an individual analyst doesn't happen to suit your earnings profile.

Quentin Digby: Yeah, it would have to be consistent.

Kevin Lewis: Yeah.

Ian Matheson: Sorry to interrupt. Is that a matter that a company should determine a policy on so that it's clear that the company is choosing six analysts, and even to specify who they are?

Quentin Digby: Consistent with the guidance note, you would have to be very clear about how you've gone about it. And I think that would make sense. I don't know that you would lock in the six forever. But if you were ever to change them, A. you wouldn't want to be doing that that regularly, and, B. you would want to be able to provide a coach and explanation as to why. If one came in, and it might be because actually the volume trade associated with that particular analyst is much lower or there's been a change.

Kevin Lewis: Yeah, a change in employment of the analyst.

Quentin Digby: Correct. But you would need to be pretty transparent about that, Ian. It's just that I do know that in some companies for the purposes of bringing their board across what market expectations are, they will have that analysis limited to particular analysts that they consider are the most credible indicators of what the market's expecting. And if you're doing that and that's your methodology for internal assessment, then in one sense it almost makes more sense if you're publishing your view of consensus to adopt that practice rather than put everybody in and actually come up with a completely different result.

Ian Matheson: But for the purposes of, if a company was to publish something on their website, determining a policy as to what a company deems to be, say, a stale forecast should be defined in the company's policy, in the disclaimer down the bottom.

Quentin Digby: Well, the problem with the policy in that sense ... I think stale is actually pretty easily dealt with. The key would be to indicate the date that you were using, because it might be stale because it hasn't been updated since the last quarterly report if it's a resources company. Or it could be stale because they've put out a significant announcement, a trading update for example. So, it's hard to set that in a policy, but I think if you were publishing consensus or your view of consensus post an update, you would need to be very clear around what date had been used to determine whether analyst reports were stale or not. And logically, probably why.

Ian Matheson: I've seen it on some UK PLC websites where they actually disclose what their definition of stale is. For example, they might say, "We exclude any forecasts that's three months or greater out of date."

Quentin Digby: And that makes sense. But I just don't know that you'd need to be tied that firmly to something like that. Because it could be, again, that you put out a particularly significant announcement.

Kevin Lewis: Out of an abundance of caution, I think the issue you've picked up, Ian, highlights some of the risks in, again, picking and choosing analysts' forecast. It's fine to do that for your internal calculations, if you think they're the best analysts around, and what you're getting is a representative view of quality analysts around where your earnings are going to land. But when it comes to publishing that information on your website, the safest course of action is to publish everyone and put an asterisk next to something that you consider out of date, and cross reference to what your policy or process is for determining whether something is out of date.

Quentin Digby: Yeah, so the one further word of caution that people should be aware of there is, if you publish, whatever you publish, even though it's not guidance, in one sense, in your own internal analysis you need to consider it akin to guidance from the purpose of a market surprise. If you have put out a view or a range of consensus, then inevitably the market is looking at that. The fact that you've produced it, I don't think matters. You've now set a bit of a range, which realistically, if your internal expectations start to deviate from that materially, it could very easily trigger the need to go out with an update. Whereas, if you haven't published consensus, inevitably that range is going to be a little bit bigger, because you haven't gone out effectively providing to the market a bit of a benchmark as to where consensus is. That's not to say you shouldn't do it, you just need to be mindful that if you're publishing consensus that needs to factor into the equation. And I know that makes it harder, and we've had discussions here around CEOs that are disappointed that IR professionals aren't able to get analysts closer to the mark, but you just need to be careful how those leaders go.

Ian Matheson: Thanks gentlemen. Kevin, should we let you finish and talk to your other sides, or are there any questions online that people would like to ask on that topic before I move on to a couple of other issues?

Operator, have you got any questions on the phones?

Operator: There are no current questions on the phone but, as a reminder, if you wish to ask a question, please press star one on your telephone.

Ian Matheson: Look, one question that's come through the web. The question is, if you are collecting a P&L breakdown from key analysts based on their published forecasts, say out three years, is there an issue with providing the aggregated consensus P&L breakdown back to the analysts who participated in the collection, provided the bottom line EBS or DBS does not differ materially from a consensus aggregator, like Bloomberg, for example?

Quentin Digby: Look, the short answer is, and in effect, the guidance note is trying to ensure that you wouldn't do something like that unless it was also available in some way on your website, so that there was no risk of selective information flow. I know the question here implies that, "Well, look, all we're doing is giving back to them the data that they've provided to us, aggregated," but in one sense that was always the case when a company was giving its view of consensus.

Quentin Digby: So, the fact that you haven't created the information, that you don't think it should be a surprise to the market, won't tick the box in terms of the guidance note, if you like, recommendation, unless that information is available, not just to the analyst that participated but more generally through the website. I don't know whether you wanted to add...

Kevin Lewis: No, that's absolutely right. You hit the nail on the head. Development issue is, whether you're selectively briefing analysts by giving them that information, and whether you're providing to those sectors of the market, who aren't necessarily served by analysts, equivalent information. That's going to run you into trouble with ASIC.

Quentin Digby: `We've got two other good questions that have come in.

Ian Matheson: I'll just read out the second question. Do you think this recent ASX guidance note 8 revision will lead to more listed entities who have published earnings guidance to also publish consensus on their websites?

Quentin Digby: It's a really good question. Look, ideally you would like to think so because in one sense, you know that would help inform the market and I know, Ian, that's something that you would like to see possible. Whether it transpires in practice, I don't know. Certainly, I don't think the changes alone would result in a difference in approach because they don't actually necessarily affect that question. But the very next question-

Ian Matheson: Sorry, just before we jump onto the next one, Kevin, any response to the question two?

Kevin Lewis: My guess is that it applies. Anecdotally, what we've heard since we put the material into Guidance Note 8 a few years back, around the fact that guidance and publishing analysts' forecasts and so on, is most people have moved away from that because of the risks that were identified in Guidance Note 8 around the fact that guidance in particular and misleading the market. So I mean, while we've tried to make the guidance clear and in particular to draw that distinction between what you use for internal calculations and working out whether or not you've got an earnings surprise, and what you publish to the market, I'm guessing that's not going to lead to any real changes around what people publish to the market.

Quentin Digby: Yeah, I think rationally it shouldn't. But the reason I was going to go to this next question, Ian, is I think it gets to the heart of this whole equation which, and the question is, given the risks of publishing consensus estimates is-

Ian Matheson: Just moving to the next question. Quentin's reading our next question. What are the offsetting benefits of doing so?

Quentin Digby: Look, the reality is, there are, from an IR perspective, some fairly significant benefits and when we were looking at this, bearing in mind that the practice pre-Newcrest was actually to be reasonably willing to disseminate the company's view of consensus, that the rationale was twofold. One even down to the fact that, often it was of great annoyance to the company and the CEO and the Board where, their results in a period came in in line with the company's own expectations of consensus expectations, and yet the media had picked up the Bloomberg page, which included stale data and other outliers for one of the better description, and then reported that the company had missed market expectations, when in fact that wasn't the truth.

Quentin Digby: So, I know a lot of companies were concerned about being able to make sure that commentators understood what was a reasonable expectation and what wasn't. They're also very aware that, and I don't know whether it's still the case, but often the first thing an analyst was keen to understand from the company, knowing that the company's going through the work of analyzing all of the expectations and forecasts, are we in line with consensus because it's, you know, the analysts themselves don't necessarily have the same access to the data about the other analysts, nor these days, the time to run this sort of analysis and calculations the company does.

Quentin Digby: So, from the company's perspective, another advantage is actually being able to provide a bit of quid quo pro to the analysts without breaching the law. There was never an intent to selectively disclose. Do I think some companies also found it useful because it would herd some of the outliers in closer? Yes. Now is that a disadvantage? It's clearly an advantage.

Quentin Digby: So, there's a number of reasons why it would be useful for the company if it can safely do it to publish consensus.

Kevin Lewis: No, I agree with that and I wouldn't add anything to that analysis.

Ian Matheson: Next question. I'm not sure whether we've already picked this up but, what's your guidance on listing analysts covering the stock on our company's website or in company presentations without discussing consensus forecasts?

Quentin Digby: Well as long as it's accurate, that's perfectly safe. It's what Amcor now does on their website and, you know, with an appropriate disclaimer, I can't imagine that that is a risk at all. Not sure that it achieves all the benefits that you might want to achieve, that it wouldn't be high risk.

Ian Matheson: And I suppose it goes without saying, you'd have to list any analyst who covered the stock?

Quentin Digby: You would have to be very clear what it was you were doing. And so if you look, for instance BHP and Rio in the [web] page, which takes you to the VUMA Consensus. They make it clear that it's all registered analysts that are following the stock, et cetera. You can't cherry pick.

Kevin Lewis: And that was going to be my observation that the cherry picking issue and, and, and also changing the group of analysts on the web page from to time because there happens to be one who's expressed the view that you don't agree with, or don't like.

Ian Matheson: It's an interesting dilemma I think for some companies. In fact, just a couple of weeks ago, I got an email from a member company outside the ASX 100, who just made the observation that, of the five brokers that cover them over this calendar year, the analyst had changed in all cases.

Ian Matheson: In some cases, the analyst was still- coverage was still in transition or, and/or the analysts hadn't updated their forecast for three or four more months. So that the net effect was that, of the five brokers covering this company, only two had current, active forecasts in the market, which according to this company was not sufficient to form a true consensus. Two analysts. So, it's, you know, for the smaller company, it's arguably you know, arguably the need to publish something almost becomes more critical.

Quentin Digby: Correct, nd there are some companies who, because of the dearth of analysts following them, have almost gone into a pattern of providing a bit of an update, you know, in the month or two, leading up to the results.

Quentin Digby: Now the key though is to do that when you reasonably confident where you're going to come out and so it has sensibly should be towards the end of the period provided you're not expecting a material earning surprise before then, because otherwise you have your continuous disclosure obligation. The harder one is to go out with guidance and I know, again, a lot of IR people would like to be able to do that and some analysts expect it.

Quentin Digby: But guidance at the start of a period or at the half year for the full year outcome, you know, that brings with it the risks that the guidance note flags around needing to have robust, reasonable grounds and that you have effectively put a very clear marker against which any material change needs to be disclosed.

Quentin Digby: And I've yet to see, even where companies have limited it to matters that are within their control, so production, which is typical for a resources company, it's remarkable how often weather or some event can blow it out if it triggers that need. So, I think if you're not covered by analysts sufficiently to feel that you've got a good sense of what the market expectation is, taking the approach that I know some of the companies do, like Caltex traditionally did, of providing a bit of an update, should be in a month or two before a results release, is probably the safest way.

Ian Matheson: Just for clarification, coming back to that earlier question about only putting the name of the analyst on the website, not the forecast. If an analyst or a broker's coverage of a particular company was in transition, so there was no active forecasts in the market, and ipso facto that they're stale, could a company exclude the name of that broker or analyst on the basis of they're in transition, or the forecasts are out of date?

Quentin Digby: Yeah. The way, for instance, if you look at Amcor, which is on the website, they're not trying to do that. They're just indicating which analysts follow the stock and giving a hyperlink to the general webpage of analysts, not to a report. So, I think they wouldn't need to, nor would it be logical that they're excluding an analyst just because they're in transition. No, the risk you have of picking and choosing, it is actually either you get accused of cherry picking even if you're not, but I would've thought logistically too, you'd have to reconsider it every time. What sort of messaging is that sending? I think Amcor's way is perfectly safe.

Kevin Lewis: Yeah, I agree with that. I think the risks of starting to take people off your website is you really do need to put an explanation on your website and then you've got the issue of who's going to be watching this stuff like a hawk and making sure that the website gets updated appropriately.

Ian Matheson: Next question. If you use a third-party provider to collect consensus and the broker has updated stale guidance, can you exclude them, provided you have a disclaimer which says that you will exclude stale estimates, you need to name them?

Kevin Lewis: You certainly want to describe the process at a minimum, I think. The more information you give, the less likely you are to mislead, so do you need to name them, as a matter of law? I wouldn't think so, but as I say, the more information you can give as to why you've excluded someone and so you're not misleading the reader, the better.

Quentin Digby: Yeah and look, from what I've seen, I think between the company and the third party providers, so VUMA is a classic example. They would normally be able to send a signal to an analyst, if they're putting, as to how information, A, go back and take into account this announcement or this quarterly, or indicate you're not participating, in which case then, it'd be flagged that they're not participating.

Ian Matheson: Next question is actually two questions. The first one is, do the same considerations apply to half year consensus?

Kevin Lewis: Oh that's, look that's a really good question. I mean, the logical principles do. The problem you've got with half year consensus is not all analysts provide a half year consensus and typically the company, even for its own internal, from what I've seen, it's own internal analysis. It is working on the full year. So you know where that becomes difficult is if there's either a difference in pattern, and we often see a scenario where a company is, it still considers it's on track for its full year market consensus, but for whatever reason, it's going to be second half year weighted, and if anything, their concern is that the first half not be misread as indicating an outcome, which it doesn't expect for the full year. If you try and deal with half year consensus, by definition you're dealing with a much smaller number of analysts, you can compound that issue. So, I think companies typically will try not to get into the game of dealing with consensus on a half year basis. And if anything, will think more around what sort of qualitative disclosure might be appropriate accompanying the half year, if they feel that either the half-year result could mislead people about the full-year expected outcome, or need some explanation to try and ensure that ... I would still think full year, rather than trying to get into the half year.

Kevin Lewis: Yeah, I agree.

Ian Matheson: Second part to this question ... Or it's actually a completely separate question. Any tips on how to best answer an analyst or investor's question, where is consensus at?

Quentin Digby: Well, that goes to the heart of it. So that used to be a standard question, and I'm sure is still asked. The short answer is, you just can't be trapped into that. And for example, you can't even say, "Look, you're in line with consensus." Or, "You're a bit low." I know that will be incredibly tempting. Blame the lawyers. In all seriousness, it's one time when we come in handy, because the analysts will be fully aware of just how much more rigid and regulated this is. So, you should feel comfortable in saying to them, unless you do, "We don't publish consensus, from a regulatory perspective, that is too great a risk so that's just not a question I can answer."

Kevin Lewis: Yeah. In the same way you wouldn't answer the question, are your earnings in line with consensus?

Quentin Digby: Yeah.

Kevin Lewis: You shouldn't be answering that question.

Quentin Digby:	Yeah.
Ian Matheson:	Suffice it to say that a company could say that, "We don't comment on consensus specifically," and that secondly, "We are conscious of our continuous disclosure obligations."
Kevin Lewis:	Indeed.
Quentin Digby:	Yeah, you could. You could. Although that actually doesn't really go to their question, in a sense, because part of what they'll be trying to do is identify whether they're in line with consensus or not. So, they're pretty keen to understand what consensus is and where are we. But, yeah, you could safely say that.
Ian Matheson:	Folks, we've exhausted the questions by the web operator. Are there any questions via the phone?
Operator:	No questions via the telephones.
Ian Matheson:	Sorry, one last question's just come through. This is an observation rather than a question. As a mining company, we consider consensus with every production related update at least every quarter.
Quentin Digby:	Look, frankly that makes sense, because as a mining company issuing a quarterly, and there's a reason most of them don't call it a quarterly production and exploration report anymore, you've got a golden opportunity if you feel there's starting to be a divergence in what you think the market is expecting and what you're internally expecting to actually pre-emptively start steering the market. You've got a periodic report, if that makes it less likely for you to have to come out in the period with a specific trading update that we know the market will react significantly to, you should use it.
Quentin Digby:	So, I would say any mining company should definitely be doing that, and considering any other signalling that could be appropriate in the quarter to bring the market along.
Kevin Lewis:	I guess, we're shadowing some comments that I'm about to make. I'd highlight the fact that we're actually expanding the quarterly reporting obligations that currently apply to mining and oil and gas exploration companies across to other stale identities that have to file an appendix 4C quarterly cashflow report. So those companies will have that opportunity as well to steer the market through their quarterly report.

Ian Matheson: We'll assume that there are no further questions on guidance note 8. But Kevin has a couple more slides about some guidance note 9 amendments. Would you like to talk to those now?

Kevin Lewis: Yeah, sure. I just thought I'd take the opportunity while I had this audience on the line to highlight a couple of issues. The first relates to guidance note 9. That's our guidance note on corporate governance disclosures. We put out an update to that, actually at the same time as we did the update to guidance note 8. And that was to give some more guidance around some questions we were being asked as we were doing the road show about the fourth edition of the Corporate Governance Principles and Recommendations. And so, we wanted to tackle some of those questions in a more public way, and put the guidance out to the benefit of the market.

Kevin Lewis: So, there are some changes that went through to guidance note 9. This is all relevant to the fourth edition of the Corporate Governance Principles and Recommendations. We know that there are a number of listed companies that will be adopting the fourth edition early in the current financial year, and will be reporting next June, July, August around their compliance with the fourth edition. And, of course, our 31 December reporters will have to start complying with it from 1 January next.

Kevin Lewis: So, I'll just highlight a couple of the changes. There's a new section 9, has gone into the guidance note, that gives some guidance around how you complete your appendix 4G, which is your key to corporate governance disclosures. And that's quite specific around when it's appropriate to check the box in the second column at that form indicating full compliance for the whole of the reporting period with a recommendation. And when you should be ticking the box in the third column, which is that you haven't complied fully for the whole of the period. Because we've seen a few instances of late where companies have been claiming compliance with recommendations when on the face of it, they don't. And that particularly comes up in the case of recommendations that have multiple lenses to them. For example, the diversity recommendation where we see companies comply with some parts of the recommendation but not all of it, yet claim that they're complying in full with the recommendation. And I'll come back to why we're highlighting some of these issues shortly.

Kevin Lewis: There's a new section 10 going in around disclosure of corporate governance policies. That deals with the fact that in the fourth edition you are now asked to disclose your policies in full rather than just a summary. And we have seen some people who in the past have disclosed summaries, or they've split their policies into sort of a high-level policy document, and then a more detailed protocol or guidance or procedure and not publish that to the market. We'll look pretty carefully at people who split their governance policies in that way to see whether they're actually complying with the spirit of the recommendation that you disclose your policy in full.

Quentin Digby: Just on that one, Kevin. I mean, this is the continuous disclosure policy.

Kevin Lewis: Amongst others, yes.

Quentin Digby: Right. And that one we have seen, in fact, that it's almost becoming market practice for there to be a separate internal procedures document which would have the detail right down to who you call, telephone numbers, all their referral-

Kevin Lewis: That issue is actually addressed in the passage that we've added into the guidance note. What we're concerned about is people who have literally a one paragraph policy.

Quentin Digby: Okay.

Kevin Lewis: And then all of the real policies set out in a second document. We have no problem with people actually having those points of detail in a separate document and not wanting to publish, for example, individual staff emails or phone numbers and that type of material, where they've got a hotline for your whistle blowing policy. You don't want to necessarily disclose all the details down to that level. So that's okay. But, as I say, we've added a new section to address that point.

Kevin Lewis: We've added a new section 11, dealing with the diversity recommendation, recommendation 1.5. And that's to make it clear one of the changes that was made in the fourth edition was that the Board has to set measurable objectives for achieving gender diversity, not only in the composition of the Board, but also in the composition of its senior executives in the workforce generally. And if you don't tackle all three in your measurable objectives, you're not complying with the recommendation. So, we've made that point quite clear in the guidance in section 11.

Kevin Lewis: And then there's a new section 14, dealing with new recommendation 4.3. And that's the one that says you should disclose your process to verify the integrity of periodic corporate reports. We have seen some instances of, in particular, the audit profession trying to drum up some extra work based on that recommendation and suggesting to companies that you should be having your external auditor that review a whole range of materials that you wouldn't necessarily have got them to review in the past, including, for example, your results packs and your AGM packs. They are not, and were never intended to be, periodic corporate reports. It's a very specifically defined term in the corporate governance recommendations. And we've made it quite clear in the guidance in section 14 of guidance note 9 just what that phrase is intended to cover, a periodic corporate report.

Kevin Lewis: Now, I just want to highlight, we will be looking very closely at, particularly, the list of companies who early adopt the fourth edition, just to make sure that people are complying with the spirit and intent of the new rules, and to stop any bad precedents that might be said in early days around disclosures of governance practices. There's obviously a lot of focus around corporate governance issues following on from ASIC’s experiment with psychologists and their review of corporate governance across ASX 100 listed companies. It's an area that we think the market probably does need to do a little bit better in terms of its governance disclosures, and we'll be looking at that carefully. And the end result of that could well be some companies finding themselves a little embarrassed when they claim full compliance with some recommendations, and we point out to them that they in fact are not compliant and will need to get themselves compliant if ... unless they want to do an if not, why not explanation.

Kevin Lewis: The other point I just wanted to cover very quickly, for those of you who might not have seen it, last week we put out a pretty significant package of rule and guidance note changes in response to the consultation launched in November of last year. There's 61 pages of consultation response, 169 pages of rule changes, five amended listing rule appendices, and six new and 12 updated guidance notes. There's a fair chunk of paper to get through there. We are running a national road show late October, early November to educate the market around the changes. And if you're interested in attending to that road show, just go to eventbrite.com.au. E-V-E-N-T-B-R-I-T-E.com.au. And just search for ASX listing rules, and you'll get the dates and venues and what have you.

Kevin Lewis: I'll just highlight very quickly the rule changes that are particularly relevant to IR professionals. There's a lot of stuff in there for company secretaries, but it won't be quite so relevant to IR professionals. But just sort of a quick highlight of those that might be relevant to you. We are asking for clearer disclosure of closing dates for receipt of director nominations. That's currently an obligation under listing rule 313.1. But we've changed the rule to make it quite clear that if you fail to comply with that obligation it doesn't invalidate your election of directors. We often have people arguing that. And we've also given some guidance in a note to that listing rule, that one way you can disclose these dates is just putting them into a corporate calendar, for example, on your website.

Kevin Lewis: We have changed the rule dealing with disclosure of voting results of meeting of security holders to be more specific around what needs to be disclosed so that we get some standardisation there. And that's listing rule 313.2. And we are publishing a template on our website that will come into effect when these rule changes come into effect on the 1st of December, that you can use for the purposes of making those disclosures.

Kevin Lewis: So very small change to listing rule 313.3. Currently that rule requires you to lodge a copy of the chairman's speech to the AGM ahead of the AGM. Most people do this in any event, but we're making it clear in the rule that if your CEO gives a speech at the AGM, you should be lodging a copy of that ahead of the meeting as well.

Quentin Digby: Which is really just a clarification, isn't it?

Kevin Lewis: Correct.

Quentin Digby: Because it was any prepared address.

Kevin Lewis: Yes, correct, correct.

Quentin Digby: A bit cute to try and read that down to just the Chair.

Kevin Lewis: Correct. And in response to actually a suggestion from AIRA, we're asking for more granular disclosure in distribution schedules in your annual report. And then last but not least, there's a change to the provisions dealing with market announcements that are a little more specific around what you should include in a market announcement, including putting the name, address, and logo of the company on the announcement. A message being made on a prescribed form, for example, a corporation’s act form. State the body or the officer who authorises the release. And if it's a 3.1 announcement, again, a suggestion from AIRA that you include contact details for the shareholders and other interested parties to contact if they want more information about the announcement.

Kevin Lewis: So just highlight those changes for you. They come into effect on the 1st of December. And as I say, we're doing the road shows at the end of October and November, if you're interested in coming along and hearing more about those changes.

Quentin Digby: Just a couple of quick questions that occurred to me, Kevin. Stating the body or officer authorising a release. Now, you look at James Hardie, for example. You'd want to be careful saying it was from the Board.

Kevin Lewis: Yeah.

Quentin Digby: And the Board will be mindful of being careful. And then obviously a results release they are signing off on. Can you imagine that that will often be the Company Secretary, on the basis that that's the last officer authorising? Or are you expecting if it's financial information that it would be the CFO or CEO?

Kevin Lewis: It's a question of fact as to who has actually authorised it for release to the market. We're not prescriptive around who the body or officer has to be. If it's the Company Secretary is putting the information into the market, then they're probably the authorising officer.

Quentin Digby: And often it will be, because ... and then they're relying on internal processes.

Kevin Lewis: Correct.

Quentin Digby: Okay.

Kevin Lewis: It doesn't exclude other people from authorising announcements. We do say, for example, you might have a continuous disclosure announcement authorised by your Disclosure Committee, for example. Or it could be something that's authorised by your Audit and Risk Committee or the Board itself or other officers like the CEO or the Chairman of Directors or whomever. So, it's just a question of fact as to who has actually authorised it.

Ian Matheson: To your point, Quentin, it's not necessarily the person who's actually physically lodged the announcement with ASX's announcement platform.

Kevin Lewis: It's the person who's saying this document is now ...

Quentin Digby: It's ready to go.

Kevin Lewis: Yep.

Quentin Digby: Which is often the company secretary.

Kevin Lewis:	In many cases it would be. Although a lot of secretaries will sign things, as you do, with the notice of meeting, for example, by order of the Board.
Quentin Digby:	Yes.
Kevin Lewis:	Yeah.
Ian Matheson:	Very good. Well, gentlemen, thank you very much for your contributions. We've exhausted the questions as well. On behalf of all those on the webinar, thank you to Kevin and to Quentin very much for your comments. Always appreciated. And Kevin, in your case, we look forward to seeing you at our Annual Conference in Melbourne on the 22nd of November as well.
Kevin Lewis:	Good.
Ian Matheson:	Thanks very much, folks. Appreciate your participation and attendance today. That ends the webinar.

End.

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About AIRA

The association's mission is to advance the awareness of, and best practice in, investor relations in Australasia in order to achieve better outcomes for all capital market stakeholders through enhanced engagement.