

AS THE MEDICAL CANNABIS SECTOR HEATS UP, THE AUSTRALIAN SECURITIES EXCHANGE ISSUES A REMINDER OF ITS LISTING REQUIREMENTS

06 December 2017 | Australia
Legal Briefings - By **Adam Charles**

The Australian Securities Exchange's rigorous listing requirements will contribute to the growing interest in ASX-listed cannabis companies on the part of global pharma, FMCG and PE players.

KEY TAKE-AWAYS

- The ASX has issued an important reminder of its listing requirements to the cannabis sector, particularly those businesses looking to participate in the US cannabis market.
- The announcement is not a departure from the ASX's existing listing eligibility rules, which have seen the ASX become a listing destination of choice for medical cannabis businesses.
- Corporate activity in the cannabis space is set to rise, as FMCG and PE players enter the sector.
- The ASX's high standards will contribute to ASX-listed cannabis companies increasingly being M&A targets.

THE ASX: A LISTING DESTINATION OF CHOICE FOR THE SECTOR

As the global regulatory landscape increasingly facilitates the commercialisation of medical cannabis, and potentially recreational cannabis, the ASX is developing a reputation as the sector's listing destination of choice.

At present, there are in excess of 17 ASX-listed companies that participate in the cannabis supply chain.

Reflecting the ASX's wider reputation as an attractive exchange for companies with market caps in the range of A\$50m-\$500m, cannabis businesses have been attracted by the ASX's liquidity, contemporary rules, and corporate governance standards.

ASX HIGHLIGHTS ITS LISTING REQUIREMENTS

In the wake of the sector's appetite for the ASX, the ASX has sought to reinforce its reputation for quality listings by reminding listing applicants that they must have a structure and operations that are appropriate for a listed entity. The ASX noted the following examples of where an applicant may not meet this requirement:

- the applicant has a vague or ill-defined business model or its business operations do not appear to ASX to have any substance;
- the applicant's proposed business is little more than a concept or idea; or
- the applicant has not yet secured the key licences, government approvals, intellectual property rights or other property or rights it will need to operate its business.

The ASX has announced that, in view of the uncertain legal status of medical cannabis businesses under US federal law, the ASX will need to be satisfied that US businesses can be lawfully carried on. Generally, this will need to be confirmed via a legal opinion from a reputable US law firm, which must be included in the applicant's prospectus.

COMMENT

The ASX's announcement does not represent regulatory change: it is consistent with the ASX's existing rules. In addition, it should not be viewed as a signal that the cannabis sector is unwelcome on the ASX.

Rather, it is a reinforcement of the standards that make the ASX an appealing market for investors and, in turn, companies looking to finance cannabis businesses.

We will see more quality medical cannabis businesses listed on the ASX. This is a good thing, as the sector is attracting growing corporate activity:

- Just this week, A\$340m Cann Group announced an over-subscribed A\$60m share placement, including to cornerstone investor, Aurora Cannabis, which increased its stake to 22%. At home in Canada this week, the C\$3bn Aurora launched the first hostile takeover in Canada's cannabis sector.
- In November, global alcohol giant, Constellation Brands (which sells Corona in the US), paid C\$245m for 9.9% of TSX-listed, Canopy Growth Corp, a seller of medicinal cannabis products. The transaction implied a value of approximately C\$2.5bn for the Canadian company. In addition, Constellation and Canopy will enter into a strategic relationship agreement under which the companies will collaborate to develop and market cannabis-based beverages that can be marketed as adult-use products.
- Brown-Forman Corp. (owner of Jack Daniels) and Boston Beer Co. (owned of Samuel Adams beer) have added cannabis legalisation as a risk factor in their regulatory filings.
- Elsewhere, PE fund, MedMen Opportunity Fund II, LP, is seeking to raise US\$250m for investment in the sector.

With US sales alone forecast to reach US\$50bn in 2026 (Cowen & Co), this is a sector that will increasingly attract the interest of the pharma and FMCG sectors.

The ASX's rigorous listing and ongoing disclosure standards will contribute to companies listed on the ASX being attractive targets for M&A.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



SHAUN MCVICAR

PARTNER,
MELBOURNE

+61 3 9288 1587

Shaun.McVicar@hsf.com

LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2021

SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE

Close

© HERBERT SMITH FREEHILLS LLP 2021