



HERBERT
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FREEHILLS

Attention: Kevin Lewis
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22 December 2020
By Email

Dear Sir

Submission on proposed changes to the ASX Listing Rules related to the next release of its online forms, notification of security issues and corporate action timetables

Scope of this submission

This submission is made by the Head Office Advisory Team at Herbert Smith Freehills in response to the consultation paper titled 'Proposed Listing Rules changes: online forms, notification of security issues and corporate action timetables' (**Consultation Paper**) released by the ASX on 30 November 2020.

Our submissions are focused on the proposed new *Appendix 3H Notification of cessation of securities* and Listing Rule 3.10.3E, which would introduce a requirement to notify ASX within 5 business days of cessation of any equity securities or any unquoted debt securities. We have set out below our concerns in relation to these proposed changes.

Appendix 3H and amendments to Listing Rule 3.10.3E

We acknowledge the importance of ensuring that shareholders are kept informed of the potential dilutionary effects of equity incentives and ensuring that the market operates on a fully informed basis. However, we believe that shareholders and the market are kept adequately informed of changes in companies' outstanding unquoted issues through disclosures made in Appendix 3G, 'Part 5 – unquoted securities on issue'.

We do not consider that requiring companies to make contemporaneous disclosure of the cessation of securities would provide any material additional benefit to the market or to shareholders. Conversely, we believe that the proposed new Listing Rule 3.10.3E and Appendix 3H will impose a significant additional administrative burden on many listed companies.

Listed companies frequently use employee incentive plans, including grants of performance rights and options, to incentivise, retain and reward employees. In large listed companies, performance rights and options may be offered to employees throughout the organisation (not just the most senior executives). When employees cease employment they will typically forfeit some or all of their performance rights or options under the relevant plan rules.

For companies with large numbers of employees, Listing Rule 3.10.3E and Appendix 3H could result in companies being required to make announcements almost daily in practice (ie each time an employee exits the business).

The market is not currently receiving information regarding outstanding unquoted issues on a contemporaneous basis, and we query what additional value this information would provide to the market. As stated above, we consider that the market is already adequately informed of the overall equity position of each company through disclosures

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made in the Appendix 3G. Each time a company issues an Appendix 3G it is required to disclose the total number of unquoted securities on issue. In addition, the company's annual report must also include information about the number of securities on issue.

Further questions

Please contact Priscilla Bryans (priscilla.bryans@hsf.com) or Eloise O'Brien (eloise.obrien@hsf.com) if you have any questions in relation to this submission.

Yours sincerely,

HEAD OFFICE ADVISORY TEAM

HERBERT SMITH FREEHILLS