

15 December 2025

Attention: Andrew Campion
ASX Limited
39 Martin Place
Sydney NSW 2000
Email: ListingsPolicy@asx.com.au

RE: Public consultation on shareholder approval requirements under the ASX Listing Rules

Thank you for the opportunity to comment on the consultation paper on *Shareholder approval of dilutive acquisitions and changes in admission status*.

Airlie Funds Management generally supports the ASX's policy positions advanced in the paper to:

- require a dual listed entity to seek shareholder approval to change its admission status to an ASX Foreign Exempt Listing;
- require a dual listed entity to seek shareholder approval to delist from the ASX; and
- reduce the limit on share issues without shareholder approval under exemptions 6 and 7 of Listing Rule 7.2 to 25% of ordinary shares on issue.

We address these below and have provided answers to certain questions set out in the consultation paper (using the numbering in that paper).

Foreign Exempt Listing

A change to the admission category of a dual listed entity from a standard ASX Listing to a Foreign Exempt Listing may result in a permanent change to the rights of securityholders, as there may be significant differences between the ASX Listing Rules and the listing rules of the entity's foreign exchange.

It is reasonable to assume that investors rely on the rights and protections bestowed on them under the ASX Listing Rules when they choose to invest in an ASX listed entity.

1. **Should security holder approval be required for a change in admission category from ASX Listing to ASX Foreign Exempt Listing?**

Yes. We support amending the ASX Listing Rules to require securityholder approval for a change in admission category from an ASX Listing to an ASX Foreign Exempt Listing.

Given the significance of such a change, we believe that a resolution to change the admission category of a dual listed entity to an ASX Foreign Exempt Listing should be treated as a special resolution rather than an ordinary resolution. This approach

aligns with the voting threshold required for amendments to a company's constitution under the Corporations Act, which enshrines key shareholder rights.

Voluntary delisting by dual listed entities

ASX Guidance Note 33 (*Removal of Entities from the ASX Official List*) states that if an entity listed on the ASX holds Foreign Exempt Listing status with a primary listing on another exchange on which the securities will remain tradeable, the ASX will generally approve a delisting without requiring shareholder approval.

For an entity that has always been an ASX Foreign Exempt Listing, this approach is logical and we agree that shareholder approval should not be required for delisting. In such cases, the rules of the primary exchange would apply, and the associated risks should be well understood and reflected in investor decisions.

If ASX approves the proposal above that a special resolution be required for a dual listed entity to change its admission status to a Foreign Exempt Listing, and the securities remain tradeable on the primary exchange, then we believe that no further approval for delisting should be necessary. By approving a change in admission status to a Foreign Exempt Listing, securityholders will have assessed the rules of both exchanges and endorsed the change through a robust approval threshold.

However, where an entity with Foreign Exempt Listing status seeks to delist from the ASX and its securities are not, and will not be, readily tradeable on another exchange, securityholder approval should be required. The absence of liquidity poses a significant detriment to Australian investors, and a move to a private or unregulated foreign market, compounds the risks of loss of liquidity, reduced transparency and diminished investor protections. In such circumstances delisting effectively results in a permanent change to securityholder rights. Accordingly, approval by special resolution, consistent with the ASX's existing policy, is appropriate.

3. Should security holder approval be required for a voluntary delisting by a dual listed entity on ASX?

If a special resolution is required for a dual listed entity to change its admission status to a Foreign Exempt Listing, then securityholder approval for delisting should only be required where the entity's securities are not readily tradeable on its primary exchange. In that case, shareholder approval by special resolution should apply and this requirement should be implemented by a change to the Listing Rules.

4. If security holder approval is required, should this apply only to a dual listed entity that was first listed on ASX, but not to an entity that was listed on a foreign exchange before listing on ASX?

If securityholder approval has already been obtained by special resolution to change admission status to a Foreign Exempt Listing, no further approval should generally be required.

5. If securityholder approval is required, should this be by ordinary resolution? Should a special resolution rather than an ordinary resolution continue to be

required if the entity's ordinary securities are not readily able to be traded on another exchange?

If an entity's ordinary securities are not readily tradeable on another exchange, a special resolution should be required, and this should be effected by a change to the Listing Rules.

Bidder shareholder approval of share issues for takeovers and mergers

In our view, ASX listed entities should not be able to issue a large number of securities as part of domestic or foreign mergers and acquisitions without shareholder approval. Such transactions can significantly dilute existing holdings and, in the case of foreign mergers and acquisitions, shift the listing jurisdiction, fundamentally altering securityholder rights.

Once new securities are issued, the ability of existing holders to hold directors accountable for value destruction may be diminished. The existing policy, which focuses primarily on preventing 'reverse takeovers' without shareholder approval, is insufficient. It should be amended to allow capital expansion through transactions while ensuring that existing securityholders are not excessively diluted without their consent.

We support ASX's proposal to align with the practice in other jurisdictions where securityholder approval is required for transactions which involve an issuance beyond specified thresholds.

7. Should the current limit on issues of securities without approval under exceptions 6 and 7 in Listing Rule 7.2 be reduced?

Yes.

8. If the limit is reduced, should this be to 75%, 50%, 25% or another amount?

25%.

9. Should the current limit (the reverse takeover limit) be kept for entities outside the S&P/ASX 300 and with no more than \$300 million market capitalisation (the same group of entities as for Listing Rule 7.1A)?

No. We do not believe that entities outside the S&P/ASX 300 should be treated differently. Under Listing Rule 7.1A these entities can issue up to 25% of current securities if approved by a special resolution of the securityholders.

10. Do you think that reducing the limit on issues of securities without approval under exceptions 6 and 7 in Listing Rule 7.2 would make it more difficult for listed bidders to compete in and execute takeovers and mergers? If so, what problems would it create?

Yes, it would make it more difficult for transactions that excessively dilute shareholders to proceed. However, if deals are well structured and priced appropriately, shareholder approval should follow.

12 Do you think that exceptions 6 and 7 should be strictly limited to issues under

takeovers and mergers conducted under Australian law, with no waivers provided to extend them to takeovers and mergers conducted under the laws of foreign jurisdictions?

If a 25% issuance cap is implemented, this question is not relevant.

Security holder approval for change to nature or scale of activities under Listing Rule 11.1

There may be merit in revisiting Listing Rule 11 to:

- protect market integrity by ensuring that a listed entity does not, without the approval of shareholders, undergo such a significant change in its nature or scale that its business no longer reflects its current operations;
- ensure transparency and investor confidence by requiring that shareholders and the market receive adequate disclosure and an opportunity to vote when a company undertakes a material transformation or change in strategic direction; and
- maintain confidence in the listing regime by requiring compliance when the change in nature or scale is so significant that the entity should be required to meet the standards of a new listing.

Please feel free to contact us concerning any aspect of our submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Matt Williams', written over a light grey rectangular background.

Matt Williams
Head of Australian Equities
Airlie Funds Management