

15 December 2025

Attention: Andrew Campion  
ASX Limited  
39 Martin Place  
Sydney NSW 2000

Sent via email: [ListingsPolicy@asx.com.au](mailto:ListingsPolicy@asx.com.au)

## Shareholder approval of dilutive acquisitions and changes in admission status

Dear Mr Campion,

Thank you for the opportunity to provide feedback on ASX's consultation on shareholder approval of dilutive acquisitions and changes in admission status.

Australian Retirement Trust (ART) is one of Australia's largest super funds. As at 30 June 2025, more than 2.4 million Australians trusted us to take care of over \$350 billion of their retirement savings. We're here to help our members retire well with confidence, focused on strong long-term investment returns, lower fees and the information and access to advice our members need to manage their super and retirement.

In summary, ART supports the introduction of a requirement for security holder approval by way of special resolution for ASX-listed entities to change their admission category from ASX Listing to ASX Foreign Exempt Listing, and for a voluntary delisting by a dual listed entity on ASX. In addition, ART supports the removal of Exceptions 6 and 7 in Listing Rule 7.2, which as a result would require security holder approval by way of ordinary resolution of issuances of securities exceeding 15% in connection with acquisitions.

Whilst we acknowledge ASX's proposal not to amend Listing Rule 11.1 as part of this consultation, we would support the requirement for security holder approval to make a significant change to the nature or scale of an ASX-listed entity's activities. We would welcome a review of Chapter 11 to consider such a requirement in due course.

We trust our contribution will be beneficial and would welcome the opportunity to discuss our feedback further with ASX. Please contact me or Christopher Ramsay, Public Policy and Government Relations Manager ([christopher.ramsay@art.com.au](mailto:christopher.ramsay@art.com.au)), should you require any further information.

Yours sincerely,



Ian Patrick  
**Chief Investment Officer**  
**Australian Retirement Trust**

## Appendix: Responses to consultation questions

### Shareholder approval for change of admission category to ASX Foreign Exempt Listing

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

ART supports the introduction of a requirement for security holder approval by way of special resolution for ASX-listed entities to change their admission category from ASX Listing to ASX Foreign Exempt Listing.

In principle, ART supports the rights of ASX-listed entities to seek dual listings, which may increase liquidity and provide access to a broader range of potential security holders. However, a move by an ASX-listed entity to move their primary listing away from ASX could reduce the protections and rights afforded to security holders by the ASX Listing Rules as well as overall expectations on corporate governance for ASX-listed entities, depending on the listing rules and prevailing corporate governance practices of the new primary listing market. This is of concern given that poor governance practices can lead to value erosion for shareholders. Some particularly important rights for security holders that could be given up (depending on the new primary market's listing rules) include but are not limited to the requirement for security holder approval for:

- the issuance of securities exceeding 15% of the entity's issued securities (Listing Rule 7.1);
- the issuance of securities to related parties and other persons in a position of influence (Listing Rule 10.11);
- the issuance of securities under employee share schemes to directors and associates (Listing Rule 10.14); and
- proposals to make a significant change to the nature or scale of the entity's activities (Listing Rule 11.1).

Security holders should have the right to approve giving up these and other rights and protections in the event an ASX-listed entity intends to change their admission category from ASX Listing to ASX Foreign Exempt Listing.

#### 2. Are there any significant unintended consequences or other risks that this change raises that have not been considered in this consultation paper? If so, are there ways that these risks may be satisfactorily addressed while still proceeding with the proposed change?

ART does not consider there to be any significant unintended consequences or risks that this change raises that have not been considered in this consultation paper.

### Shareholder approval for voluntary delisting by a dual listed entity

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

ART supports the introduction of a requirement for security holder approval for a voluntary delisting by a dual listed entity on ASX.

Although security holders would be able to retain their securities in the entity that has a new foreign primary exchange in the event of a voluntary delisting from ASX, in practice many security holders would be forced sellers. For example, an investment manager whose investment universe is constrained to ASX-listed entities—several of ART’s external investment managers have such a constraint—would be required to sell its holdings in an entity which voluntarily delists from ASX, even if the investment manager would otherwise prefer to retain its holding.

Even asset owners (such as ART) that have large Australian and international equities passive strategies would be net forced sellers. Because most Australian asset owners have a discrete strategic asset allocation to Australian equities relative to Australia’s representation in the global index, their average holding in constituents of the S&P/ASX 300 is considerably larger than their average holding size in constituents of global indices such as the MSCI ACWI. As a result, assuming the entity were a constituent of a global index, these asset owners’ net holding in the entity would decrease substantially in order to maintain benchmark weight for the entity against the index.

In this context, ART considers it appropriate to give security holders the right to approve a voluntary delisting. We note that this right is common (but not universal) across other exchanges.

#### 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?

ART’s primary concern on voluntary delisting relates to dual listed entities that were first listed on ASX. ART recognises that foreign entities considering a secondary listing on ASX likely consider other foreign exchanges, and that a requirement for security holder approval for voluntary delisting could make ASX relatively less attractive compared to other exchanges. As a result, ART supports the security holder approval requirement being limited to dual listed entities that were first listed on ASX.

#### 5. If security holder 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?

ART considers the introduction of a requirement for security holder approval for a voluntary delisting to be a positive step in protecting investor rights. As indicated in our response to Question 3, many security holders would be forced sellers in the event of a voluntary delisting. Whilst not entirely analogous, a voluntary delisting is akin to a scheme of arrangement in which the acquired entity ultimately delists. Noting schemes of arrangement require the approval of 75% by value and 50% by number of security holders, ART prefers security holder approval be made by way a special resolution, rather than an ordinary resolution.

ART supports the continued requirement for a special resolution for the delisting of an entity whose securities are not readily able to be traded on another exchange.

#### 6. Are there any significant unintended consequences or other risks that this change raises that have not been considered in this consultation paper? If so, are there ways that these risks may be satisfactorily addressed while still proceeding with the

### proposed change?

ART does not consider there to be any significant unintended consequences or risks that this change raises that have not been considered in this consultation paper.

## Bidder shareholder approval of share issues for takeovers and mergers – Exceptions from Listing Rule 7.1

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

ART supports the removal of Exceptions 6 and 7 in Listing Rule 7.2, which would increase security holder protections and simplify the Listing Rules.

ART recognises that there are several reasons why an entity would need to raise capital more than the 15% limit under Listing Rule 7.1, including but not limited to reducing excess debt, financing a major organic growth initiative, or bringing on a new “strategic” investor, in addition to financing an acquisition. With regard to financing an acquisition, we note that the historical track record of M&A activity by ASX-listed entities is mixed at best. Recent examples of value destruction (from the perspective of the acquirer’s security holders) include but are not limited to James Hardie’s acquisition of AZEK (2025) and Perpetual’s acquisition of Pendal (2023). Noting the risk of M&A activity being value destructive, level-setting security holder approval requirements for M&A-related capital raisings to be subject to the same rules as other dilutive capital raisings would be prudent.

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

As indicated in our response to Question 7, ART supports the removal of Exceptions 6 and 7, which would reduce the limit to 15%. A 20% requirement could be considered, given this is threshold that applies at NYSE and Nasdaq-listed companies.

### 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)?

ART believes that security holders in all listed entities regardless of the market capitalisation of the entity should be afforded the same protections. Thus, ART does not support exempting entities outside the S&P/ASX300 and with no more than \$300 million market capitalisation.

### 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?

ART recognises that removing Exceptions 6 and 7 in Listing Rule 7.2 could incrementally increase transaction execution risk for listed bidders. However, we see the requirement to seek security holder approval for potentially dilutive acquisitions as adding discipline to boards when considering material acquisition opportunities. We would consider this a positive development, noting our observations in our response to Question 7 about the mixed track record of M&A activity.

In addition, we note that dilutive capital raisings are not the only financing method available to listed bidders—these entities could conduct entitlement offers to existing security holders or raise debt to

finance acquisitions. Whilst an entitlement offer does not give security holders a vote per se, it permits security holders to make the active choice on whether to accept dilution. Discipline can be somewhat imposed by lenders given the need to make regular interest payments and to repay (or refinance) the debt at a later date.

When considering whether introducing a security holder approval requirement could put listed bidders at a competitive disadvantage to unlisted bidders, it is worth noting that unlisted bidders would very likely be subject to their own security holder approval requirements, depending on their ownership and governance structure. In addition, we note that the security holder approval requirements at companies listed on major international exchanges such as NYSE or Nasdaq do not appear to have dampened M&A activity by listed bidders. In this regard, we do not consider the introduction of such a requirement would make ASX uncompetitive relative to other exchanges.

#### 11. What do you think may be the direct and indirect costs of the introduction of a lower limit on issues under exceptions 6 and 7? Would these costs be outweighed by the potential benefits?

ART identifies the need to hold a general meeting of security holders to approve the issuance, as well as the hiring of advisors to support advocacy for the transaction, as direct costs stemming from the removal of Exception 6 and 7. However, these direct costs are de minimis compared to the size of the transactions that would be undertaken. Given the overall low transaction volume over the past 5 years (as reflected in Annexure B in the consultation paper), we do not see these costs as being overly burdensome for the market overall.

In terms of indirect costs, it is possible that acquisitions with questionable value accretion bona fides would not proceed in the face of scrutiny by security holders. Noting our observations in our response to Question 7 about the mixed track record of M&A activity, we would not see this as a bad outcome.

By contrast, ART sees the potential benefits as adding market discipline which we believe would preserve value on behalf of a would-be acquirer's security holders.

#### 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?

As indicated above, ART's preference is for Exceptions 6 and 7 to be removed. In any case, we do not see the benefit for the security holders of an acquirer whose primary listing is the ASX to have different voting requirements depending on whether the target is Australian or foreign domiciled. The impact of dilution to existing security holders and the risk of value destruction do not diminish because the target is offshore.

#### 13. Are there any other significant unintended consequences or other risks that this change raises that have not been considered in this consultation paper? If so, are there ways that these risks may be satisfactorily addressed while still proceeding with the proposed change?

ART does not consider there to be any significant unintended consequences or risks that this change raises that have not been considered in this consultation paper.