

HESTA consultation submission

Shareholder approval of dilutive acquisitions and
changes in admission status

December 2025



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About HESTA

HESTA is a profit-to-member industry super fund investing more than \$100 billion¹ on behalf of more than one million members, who work predominantly in the health and community services sector.

Our members tend to have lower than average account balances, higher levels of part time and casual work and are more likely to retire early to care for others. The typical HESTA member is female, 42 years old and earns \$64,000 a year². As a long-term institutional investor in ASX-listed companies, HESTA supports strengthening ASX Listing Rules to promote strong corporate governance. Strong governance is a key driving contributor of long-term company success and helps support company boards to exercise sound judgement and effective decision -making. Strong governance frameworks also underpin market integrity and reinforce investor confidence and stability of the ASX market.

HESTA is a member of the Australian Council of Superannuation Investors and Association of Superannuation Funds of Australia, and we support the principle that company boards should meaningfully engage with investors on material decisions. Robust investor engagement strengthens transparency, accountability, and alignment between company actions and the interests of shareholders.

HESTA's recommendations:

1. Listing Rules to be amended to require shareholder approval for companies seeking to change listing status from ASX Listing to ASX Foreign Exempt Listing via special resolution.
2. Shareholder approval be required for voluntary delisting of dual listed companies on the ASX, irrespective of place of first listing, via special resolution.
3. Listing Rules be amended to reduce the limit of share issues without shareholder approval for mergers and acquisitions from 100% to 25% for all ASX listed companies, including companies outside the ASX 300.
4. ASX prioritise the timely review and implementation of stakeholder feedback arising from this consultation, rather than amending Listing Rule 11.1.

¹ As of 3 December 2025.

² HESTA Work and Life Survey 2024 conducted among a representative sample of HESTA members in July 2024.

Shareholder approval be required for companies seeking change in admission category from ASX Listing to ASX Foreign Exempt Listing via special resolution

HESTA supports this proposed amendment with the recommendation that approval be sought via special resolution. Companies seeking to change their admission category to ASX Foreign Exempt Listing has the potential to reduce the depth of listings on the ASX and significantly alter the way investors can exercise their ownership rights.

A shareholder approval requirement is important given nuanced but material differences between markets, with change in listing having the potential to erode shareholder rights and weaken established corporate governance standards. Additional in-depth work to compare governance standards across markets by the ASX would be beneficial as supporting analysis to this work.

Recent trends indicate that the proportion of locally held shares in Australian companies that have moved their primary listing to overseas exchanges has more than halved in recent years and continues to decline³. This trend has raised concerns among investors that an increase in secondary listings or dual primary listings may be contributing to a broader outflow from the ASX and is significantly impacting the depth of ASX listings.

Notable recent examples of companies that have either delisted from the ASX or significantly reduced their shares represented by CHESS Depositary Interests (CDIs) include AngloGold Ashanti, Janus Henderson and Alcoa's acquisition of Alumina.

For protection of minority shareholders, it would be appropriate that such material change should require approval by special resolution. This requirement would seek to prevent significant changes without meaningful input from all investors, including minority shareholders.

³ AFR 2025, The ASX's dual-listed giants are increasingly disappearing overseas, <https://www.afr.com/companies/manufacturing/the-asx-s-dual-listed-giants-are-increasingly-disappearing-overseas-20250428-p5lunl>

Shareholder approval be required for voluntary delisting of dual listed ASX companies, irrespective of place of first listing, via special resolution.

HESTA supports the proposed amendment requiring shareholder approval for voluntary delisting with added recommendations that this be done irrespective of where companies first listed and approval be sought by a special resolution.

HESTA believes the effect on Australian investors would be the same for voluntary delisting of dual listed companies, regardless of where the company was first listed. HESTA therefore recommends the location of a company's initial listing should not be a factor in determining regulatory outcome. Consistent with the reasons provided supporting shareholder approval for changes in company listings, we recommend that any decision to delist should be subject to approval by special resolution.

HESTA would encourage the ASX to further review and address any potential mechanisms that might allow companies to avoid shareholder approval when delisting. This will help strengthen the framework's integrity, promote greater transparency and help maintain alignment with investor interests.

HESTA would also encourage the ASX to comprehensively compare adequacy and robustness of foreign exchange governance standards when assessing company waivers and the intent of the listing rules.

Reduce the limit for share issues without shareholder approval for mergers and acquisitions from 100% to 25% for all ASX listed companies, including companies outside the ASX 300.

HESTA supports the proposal to reduce the threshold for share issues without shareholder approval by the ASX and recommends the threshold be reduced to 25% for all listed companies, irrespective of size or market capitalisation.

HESTA believes the 25% option strikes an appropriate balance between allowing companies sufficient flexibility for capital management and providing robust shareholder oversight for transactions that could significantly impact ownership structure and shareholder value.

HESTA does not support maintaining the 100% limit for small ASX listed companies outside the ASX 300 (market capitalisation under \$300 million). Timely amendment of these Listing Rule limits is strongly recommended to address the potential for transactions that bypass shareholder approval and helps promote investor confidence in the ASX.

HESTA believes it is prudent that small-cap investors receive the same protections as large-cap shareholders. Accordingly, we support the retention of the 25% issuance limit for all ASX-listed companies outside of the ASX 300.

The recent example of Southern Cross Media's takeover by Seven West Media, executed via an all-scrip merger, narrowly avoided triggering the ASX Listing Rules 100% issuance threshold for a reverse takeover. As a result, this bypassed the requirement for a shareholder vote from Southern Cross Media investors, despite the significant dilution of their holdings. The nature of this transaction underscores the importance of striking an appropriate balance between facilitating corporate transactions and safeguarding investor interests.

ASX not proceed with changes to broader amendments to significant transactions under Listing Rule 11.1 at this stage.

HESTA supports this proposal. HESTA recommends prioritising the timely review and implementation of the above consultation recommendations as the immediate focus, and encourages the ASX to introduce a process for the periodic review of Listing Rules as a mechanism to respond to evolving market practices and investor protection needs.



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