Law Council OF AUSTRALIA

Business Law Section

29 July 2026

Mr Gavin R. Skene
Acting Group Executive, Listings
ASX Limited
39 Martin Place
SYDNEY NSW 2000

By email: ListingsPolicy@asx.com.au

Dear Mr Skene

Response to public consultation and exposure draft of ASX Listing Rule amendments

1. This submission has been prepared by the Corporations Committee of the Business Law Section of the Law Council of Australia (the **Committee**) with respect to the Response to public consultation and exposure draft of ASX Listing Rule amendments released by Australian Securities Exchange (**ASX**) on 17 June 2026 (the **Response**).

2. The Committee recommends:

   (a) **Timetable and transitional issues**—ASX should confirm that the relevant period of 28 days under which ASIC may disallow all or a specified part of the change to the operating rules pursuant to section 793E of the *Corporations Act 2001* (Cth) will have been exhausted prior to the commencement date of 21 October 2026. The ASX should also confirm that the new regime does not apply to a regulated takeover or merger announced to the market prior to 21 October 2026;

   (b) **Specificity in applying 'Prescribed Transaction'**—ASX should expressly expand the definition of a 'prescribed transaction' to an entity that is included in the S&P / ASX 300 Index on the date of the announcement to the market.

   (c) **Proposed ASX Listing Rules 7.6 and 7.9 Exception 4**—For consistency with the exceptions to ASX Listing Rules 7.1 and 7.1A, ASX should consider expanding the proposed exception, or create a new one, that enables an issue for the purposes of funding a 'regulated takeover or merger'; and

   (d) **Proposed ASX Listing Rule 7.3B.4**—ASX should limit the disclosure of issues in the notice of meeting to issues made under rule 7.2 exception 6 or 7 within three years of the meeting as the current design ("since the entity was listed or the date of the last approval under this rule") may be too burdensome for certain entities in the ASX / ASX 300 that have been listed for a considerable period of time.

(e) **Technical guidance on ASX's usual requirements in relation to delistings** – ASX should reconsider its proposed deletion of its technical guidance currently set out in sections 2.7 to 2.12 of Guidance Note 33 (*Removal of Entities from the ASX Official List*) (**GN33**), as the deleted sections currently provide useful guidance to market participants and their advisers. The Committee notes that ASX has proposed to substantially streamline GN33 on the basis that the key principles relating to the voluntary delisting framework will be codified in the proposed Listing Rules 17.11A, 17.11B and 17.11C. However, these rules do not fully address the matters set out in the guidance proposed to be deleted. The effect of the guidance changes (if adopted) would be that it would no longer be clear what ASX's policy position is on various matters. By way of example:

   (i) Section 2.11 of GN33 currently sets out a detailed list of information that must be included in a notice of meeting for a general meeting to consider a delisting resolution. The list of information specified in the proposed new Listing Rule 17.11C is more streamlined than section 2.11, and the Committee suggests that, in the interests of a transparent and predictable market, it may assist issuers and market participants for ASX to clarify (potentially as transitional guidance) whether the streamlined drafting reflects a change in ASX's information requirements in all circumstances – for example, is there a requirement for the issuer to summarise the advantages and disadvantages of removal from the official list (which is a bullet item in section 2.10, but not explicitly stated in new LR 17.11C)? ASX should consider continuing to address these matters in the reissued GN33 or in transitional notes accompanying it;

   (ii) Section 2.10 of GN33 currently provides guidance on ASX's approach to delisting following a takeover, and in our view should be retained. While Listing Rule 17.11 states that "ASX may require conditions to be satisfied before it will act on the request [to delist]", the effect of the removal of relevant guidance would be that it would become unclear what ASX's position is in the scenario provided for in existing section 2.10 of GN33 and what conditions it may apply. We consider that this section is useful guidance and well understood, and as noted above we are not sure of the rationale for its removal and consider that if a policy change is intended, it should be consulted on more substantively. Similarly, related guidance on the circumstances in section 2.7 in which a bidder and its associates would be precluded from voting on a delisting resolution is useful and should be retained.

3. The exceptions 6 and 7 in rule 7.2 depend on the meaning of the newly defined term of 'regulated takeover or merger'. The Committee also recommends the following in respect of this definition:

   (a) Paragraph (b) should be amended to apply to "<u>listed</u> securities of a registered scheme" (with the addition in <u>underlined text</u>).

   (b) Paragraph (b) should remove "(after obtaining judicial advice)" as there is no strict requirement for judicial advice and various Australian jurisdictions do not have provisions similar to that of section 63 of the *Trustee Act 1925* (NSW).

(c) Further, the words “and regulated under Chapter 6 of the Corporations Act” in paragraph (b) should be amended (by deleting the words in ~~strikethrough~~ and adding the underlined text) “that ~~and regulated under~~ Chapter 6 of the Corporations Act <u>applies to the acquisition of relevant interests in the interests in the registered scheme</u>” because, whilst the acquisition of interests in managed investment schemes are regulated by section 606 of the Corporations Act, trust schemes themselves are not regulated under Chapter 6 of the Corporations Act.

(d) Paragraph (c) should otherwise be simplified to apply to “a takeover of, business combination with, or the acquisition of securities in, a +person that is effected by tender offer or statutory process undertaken in accordance with the laws, regulations or rules in a foreign jurisdiction”.

(e) Alternatively, if this simplification of paragraph (c) is not acceptable to ASX, then we submit that:

(i) Paragraph (c) should include the words “the acquisition of securities in” as the concepts of “takeover” and “business combination” could be construed as requiring a change of control and the definition should not be limited in that way (e.g. a proportional “takeover bid”, which would be captured by limb (a), does not have to involve the offer to acquire 50.1% of the shares).

(ii) Paragraph (c) should extend to rules made in foreign jurisdictions (e.g. the UK Takeover Code is a set of rules not laws or regulations; the UK Takeover Panel is now required by the Companies Act 2006 to make rules on takeovers that may not fall within “under laws or regulations” in a foreign jurisdiction).

(iii) Sub-paragraph (c)(ii) should include the following italicised text:

“*a security holder approval process involving a +person listed on another exchange; or …”*

which is necessary to make the drafting clearer, noting that it is unlikely to be technically the case that the approval process will be “on another exchange”, rather it is the person that will be listed on another exchange. The Committee also suggests the use of “person” in a foreign context as the definition of “entity” means an entity listed on the ASX.

(f) In light of the current regime where foreign takeovers and mergers in jurisdictions having an appropriate regulatory setting are granted a waiver from rule 7.2 exception 6 or 7, ASX should progress amendments to Guidance Note 21 to confirm that a tender offer or takeover or business combination implemented in accordance with the laws of the six jurisdictions referred to in current GN 21 would meet the requirements of paragraph (c). This may not be necessary, if the Committee’s suggested simplification of paragraph (c) outlined in (d) above is effected.

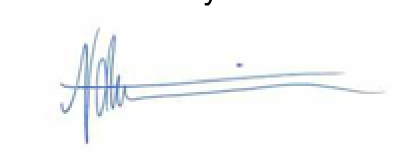
4. Consistent with the Committee’s proposed amendments to the definition of ‘regulated takeover or merger’, the Committee has produced a marked-up version for ASX consideration at Appendix C.

5. Appendix A to this letter contains the Committee’s responses to the specific questions set out in the Response.

6. Further, the Committee has annexed a table at Appendix B containing a list of suggested corrections in relation to the draft Listing Rules and Guidance Notes.

7. For further information, or if you would like to discuss any aspect of this submission, please contact Philippa Stone, Chair of the Committee on (02) 9225 5303 or at philippa.stone@hsfkramer.com; or Robert Sultan on (03) 8686 6571 or at robert.sultan@nortonrosefulbright.com; or Charles Nugent-Young on (02) 9330 8353 or at charles.nugentyoung@nortonrosefulbright.com

Yours sincerely



Adrian Varrasso
Chair, Business Law Section

Appendix A

Committee's responses to specific questions set out in the Response

Consultation Questions	Response
Operation and interactions	
Are there any interactions with other ASX Listing Rules or Guidance Notes that ASX should address to ensure the amended framework operates clearly, consistently and as intended in practice?	To the extent we have raised any other ASX Listing Rules or Guidance Notes in our submission, the interactions with these have been considered as part of this submission. The Committee has not, however, undertaken a comprehensive review of all ASX Listing Rules or Guidance Notes to consider interactions with the amended framework.
Definitions and drafting clarity	
Are the key definitions and concepts used in the draft amendments clear, objective and administrable? If not, are there targeted drafting refinements that would improve clarity without introducing additional complexity?	With respect to key definitions and concepts, the Committee submits: ASX should expand the definition of a 'prescribed transaction' to an entity that is included in the S&P / ASX 300 Index on the date of the announcement to the market; and subject to our recommendations made in the cover letter, ASX should progress amendments to Guidance Note 21 to include an example list of countries that, if the takeover or business combination was effected in accordance with the laws of those countries, it would fall within paragraph (c) of the definition of 'regulated takeover or merger'. Since ASX has previously granted waivers for takeovers or mergers under the laws of the UK, US, Canada, NZ, PNG and Singapore, it would assist listed entities and their advisers for ASX to confirm in its guidance that a takeover or business combination under the laws of those countries would fall within paragraph (c) of that definition.

Consultation Questions	Response
Implementation date	
Is the proposed commencement date appropriate, and are there any existing practical scenarios that ASX should address expressly through transitional provisions, examples or additional guidance (including in Guidance Notes 21, 25 or 33)?	Yes. The Committee agrees the proposed commencement date is appropriate. However, as noted in our cover letter, ASX should confirm that the relevant period of 28 days under which ASIC may disallow the changes to the Listing Rules pursuant to section 793E of the Corporations Act will have been exhausted prior to 21 October 2026. Further, given the importance of the issue to the transition and the commencement date of 21 October 2026, ASX should also confirm that the new regime does not apply to a regulated takeover or merger announced to the market prior to 21 October 2026.
Post-approval issuance timing	
Listing Rule 7.3.4 currently applies different time limits for issuing securities following shareholder approval depending on the transaction type. Should the post-approval issuance period be standardised across approvals to a 12-month period for all approvals under Listing Rules 7.1 and 7.4?	Yes. To reduce the regulatory burden on listed entities and for consistency, the Committee submits that the post-approval issuance should be standardized at 12 months for all approvals or, at the very least, for approvals for reverse takeovers. Certainly, in the case of reverse takeovers and regulated takeovers and mergers, the regulatory overlay applied by, for example ACCC and FIRB, warrants a 12-month period in which to make the issuance. The Committee also supports the publication of guidance from the ASX assisting market participants on interpreting a "clear and compelling commercial reason" that will justify the granting of a waiver under Chapter 18 of the Listing Rules.

Appendix B

List of suggested corrections

Page reference (PDF / ASX Listing Rules or Guidance Note)	Suggested corrections
Page 45 / Page 707 of the ASX Listing Rules	In the notes to exceptions 6 and 7 in LR 7.2, it should read "25% or more" as a prescribed transaction is one where the number of shares is equal to or greater than the prescribed threshold of 25%.
Page 47 / Page 709 of the ASX Listing Rules	In the note to LR 7.3.1, after the word "acquiring", we suggest inserting the words "(or increasing a proportionate interest in)" to be consistent with other drafting in the LRs.
Page 49 / Page 711 of the ASX Listing Rules	In LR 7.3B.1, we suggest including the word "for" after the word "approval".
Page 78 / Page 1406 of the ASX Listing Rules	We suggest the table in LR 14.11.1 should refer to "7.2 Exception 13 (b)" to be consistent with the drafting change made to the table at the start of the chapter.
Page 78 / Page 1406 of the ASX Listing Rules	In LR 17.11, the new text should be "rules 17.11A and 17.11B".
Page 86 / Page 1704 of the ASX Listing Rules	In LR 17.11B, we query whether the reference to "ASX quoted securities" be extended to include a reference to the underlying securities where the ASX quoted securities are CDIs? This comment also applies to LR 17.11A.1.
Page 86 / Page 1704 of the ASX Listing Rules	In LR 17.11C.3 a), it should be "rule 17.11A.1 or 17.11A.2".
Page 86 / Page 1704 of the ASX Listing Rules	We query whether LR 17.11B.1 (c) adequately addresses CDIs where the underlying securities represent less than 25% of the total number of underlying securities on issue?
Page 92 / Page 1804 of the ASX Listing Rules	In LR 18.10, the words "without the approval of the holders of its ordinary securities" seem superfluous?

Page reference (PDF / ASX Listing Rules or Guidance Note)	Suggested corrections
Page 203 / Page 42 of ASX Guidance Note 21	The references to LR 7.1A in the summary should be a reference to LR 7.1.
Page 204 / Page 43 of ASX Guidance Note 21	Foot note 182 in GN 21 should perhaps also refer to a “prescribed transaction”?
Page 215 / Page 54 of ASX Guidance Note 21	We query whether the explanation of “excluded persons” should more closely mirror the voting exclusion statement in LR 14.11.1.
Page 215 / Page 54 of ASX Guidance Note 21	We query whether the examples for “material benefit” relating to professional advisers could include a “prescribed transaction”.
Page 215 / Page 54 of ASX Guidance Note 21	We query whether foot notes 243 and 244 could make the point that the voting exclusion statement does not preclude a shareholder voting against the resolution, even if they have a material interest?
Page 251 / Page 20 of ASX Guidance Note 25	Foot note 76 on page 20 of GN 25 should perhaps also refer to a “prescribed transaction”?

Appendix C

8. The Committee's proposed amendments to the draft definition of "**Regulated Takeover or Merger**" as explained in the cover letter with additions in underlined text and deletions in ~~strikethrough~~:

(a) a takeover bid or a merger by way of scheme of arrangement under Part 5.1 of the Corporations Act;

(b) a transaction involving an entity acquiring (or that would otherwise result in the entity increasing its proportionate interest in) listed securities of a registered scheme and which is effected by way of an amendment to the constitution of the registered scheme ~~(after obtaining judicial advice)~~, provided that ~~and regulated under~~ Chapter 6 of the Corporations Act applies to the acquisition of relevant interests in the interests in the registered scheme; or

(c) a takeover of, business combination with, or the acquisition of securities in, a +person that is effected by:

(i) a public offer process;

(ii) a security holder approval process involving a +person listed on another exchange; or

(iii) a security holder approval process that is approved by a court or securities regulator,

under laws or regulations, or rules made under laws or regulations, in a foreign jurisdiction.

Introduced XX/XX/XX

Note: "Takeover bid" has the same meaning as in section 9 of the Corporations Act. The reference to a "merger" by way of scheme of arrangement under Part 5.1 of the Corporations Act covers any form of business combination effected via such a scheme.

"Registered scheme" means a managed investment scheme that is registered under section 601EB of the Corporations Act (Rule 19.3 and section 9 of the Corporations Act).