Our ref: RXS:79657

15 December 2025

ASX Limited
39 Martin Place
Sydney NSW 2000

Attention: Andrew Campion

By email: ListingsPolicy@asx.com.au

Dear Sir

Public consultation on shareholder approval requirements under the ASX Listing Rules

Below are responses to the numbered consultation questions contained in ASX consultation paper titled 'Shareholder approval of dilutive acquisitions and changes in admission status' dated 20 October 2025 (**Consultation Paper**).

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

   Yes.

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?**

   No.

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

   Yes.

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?**

   No strong view. It is possibly counter-intuitive for a company seeking to change to a foreign exempt listing to be made subject to a more difficult hurdle than a company seeking to de-list from ASX all together.

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?**

   Yes to both questions.

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?

Subject to the answer to 4 above, no**.**

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

The default limit under exceptions 6 and 7 (currently the reverse takeovers limit of 100%) should be reduced, as the reverse takeovers limit is overly generous and facilitates undue dilution of shareholders in ASX listed companies. The arguments made (in recent public commentary) against a reduction - that it should be for the board (and not shareholders) to decide on the extent to which a company's scrip is issued as consideration under a regulated takeover or merger - are merely reflexive. It is well accepted that Listing Rule 7.1 regulates the acceptable dilution of shareholders in ASX-listed companies. Exceptions 6 and 7 are exceptions to that that anti-dilution protection applicable to issues under regulated takeovers and mergers. Those exceptions are outliers – they are the only exceptions in Listing Rule 7.2 that operate to permit material dilution of shareholders without their approval or acquiescence. What is so unique about regulated M&A that this allowance ought to be made? Why should scrip issues under unregulated acquisitions (which also could be argued to be the subject of board prerogative) be treated differently? It is also commonplace for such scrip-funded takeovers undertaken by overseas entities require approval of their shareholders to proceed. Given the history of these exceptions, I do not suggest they be completely removed. However, a reduction to the current limit is appropriate in the interests of shareholder protection against undue dilution.

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

It may be that a reduction of the limit to 25% is too restrictive, and to 50% is still too permissive. There is no reason a percentage figure in between (eg. 30% or 35%) would not be an appropriate threshold.

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)?**

The justification for the additional Listing Rule 7.1A placement capacity only being available to entities outside the ASX/S&P300 or with a market cap less than $300 million is that ASX recognises the importance of equity placements as a capital raising mechanism for mid to small caps. Can the same be said of regulated takeovers and mergers where the bidder issues equity as consideration? The figures in Annexure B of the Consultation Paper do not necessarily convince of that being the case – small to mid-caps are not significantly over-represented when it comes to scrip issues under regulated takeovers that exceed 25% and 50% of existing capital. As such, the rationale for treating small to mid caps differently from large caps in this regard may not be present in this market. On the other hand, if there is evidence that a small to mid cap's ability to fund a cash takeover without relying on a scrip issue is significantly lower than a large cap's ability, perhaps a similar argument applies to why they can be treated differently in this regard.

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?**

Reducing the limit would make it more difficult for listed bidders to compete in and execute takeovers and mergers, as it would limit their ability to issue substantial amounts of scrip in takeovers without requiring them to defer to their shareholders. However, that is exactly the point of the change to a lower limit. It is appropriate that the limit be reduced, as imposing such a hurdle will better focus the board on acting in the interest of shareholders, with a deal that is unattractive to shareholders liable to be voted down.

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?

A likely 'cost' or consequence of the lower limit would be that bidding companies listed on ASX will be more likely to try and fund acquisitions using forms of consideration that do not involve the issue of equity. Another consequence is likely to be an increased prevalence of reverse break fees that are triggered when bidder shareholders do not provide their approval. Recent Australian practice (eg. in Alumina/Alcoa and Newcrest/Newmont) suggests that the fee payable where bidder shareholders vote down the deal will be less than the full reverse break fee payable in other circumstances (eg. breach by the bidder, or failure of a regulatory approval). However, it is possible that the practice will develop to apply the full reverse break fee amount where shareholder approval is not provided, if the ASX Listing Rules require such approval for a takeover to proceed to completion. As with all fees tied to shareholder votes, the concern would be that the reverse break fee becomes a 'gun to the head' of shareholders in exercising their vote. It may be that the Takeovers Panel would step in in this case (where the bidder is an Australian company).

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?**

The exceptions in 6 and 7 should be extended to overseas takeovers and mergers, by way of waiver as is currently done. The new ASX requirement to disclose the waiver on announcement of the transaction is an appropriate improvement to past practice, and corrects the previous lack of transparency in this area.

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?**

Shareholder mandate

Much of the criticism of lowering the limit is directed at how it may hamstring listed companies (and their boards) in competitive takeover scenarios. On the other hand, the shareholders' side of the argument is that boards have been too willing to dilute them to pursue M&A transactions which are not in shareholder interests. Allowing for an advance mandate (to make the higher reverse takeover limit under exceptions 6 and 7 applicable for a 12 month period) to be sought from a listed company's shareholders at its AGM would seemingly address both concerns. In considering this, ASX could also re-evaluate whether differing treatment of small and large entities under exceptions 6 and 7 is appropriate. Different options for a shareholder mandate could be as follows:

a. the reverse takeovers limit in exceptions 6 and 7 could apply to any listed entity (regardless of size) if a shareholder mandate was obtained at its AGM, but absent that mandate, the new lower limit would apply; or

b. the requirement for a mandate to be obtained from shareholders to access the higher reverse takeovers limit could apply only to large cap entities, with the reverse takeovers limit applying to all small to mid-cap entities by default; or

c. the ability to obtain a shareholder mandate to utilise the higher reverse takeovers limit is only available to small to mid-cap entities, and absent that mandate, and for large cap entities, the lower limit in exceptions 6 and 7 would apply.

12 month limit

At page 18 of the Consultation Paper, in the context of other alternative approaches that could be taken to Listing Rule reform in this area, it states that '[o]ther stakeholders may see merit in the ….. approach that applies a per transaction limit rather than a 12 month limit on issuance without

approval'. In its context, this statement could be read to imply that the current and proposed exceptions 6 and 7 do not and will not apply a per transaction limit, whereas they do in fact contemplate a per transaction limit for regulated takeovers (as an exception to the rolling 12 month limit in Listing Rule 7.1). Having said that, ASX could consider whether a 12 month rolling limit should apply where issuances are made in reliance on exceptions 6 or 7 (ie. a 12 month limit in addition to the per transaction limit in those exceptions). Under the current exceptions 6 and 7, a listed entity could in theory pursue multiple acquisitions within a 12 month period in reliance on those exceptions, significantly diluting shareholders (even above the reverse takeovers limit) without those shareholders having a vote.

Yours faithfully
McCabes

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