Stockbrokers and Investment Advisers Association
Building prosperity for Australian investors

15 July 2026

Email: ListingsPolicy@asx.com.au

Gavin Skene
Acting Group Executive
Listings
ASX Limited
39 Martin Place
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Dear Mr Skene

Shareholder approval of dilutive acquisitions and changes in admission status

The Stockbrokers and Investment Advisers Association (SIAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and wealth management firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

SIAA members represent the full range of advice providers from full-service and online brokers to execution-only participants and provide wealth advice and portfolio management services.

The history of the stockbroking profession in Australia can be found here.

Thank you for the opportunity to provide feedback to the exposure draft ASX Listing Rule amendments.

Overview

Change in admission category

SIAA supports ASX's proposal to amend its Listing Rules to require ASX listed entities obtain shareholder approval before changing to an ASX Foreign Exempt Listing given the impact the change of admission status can have on the voting and other rights of the company's shareholders. The narrow exemption for qualifying NZ listed entities sensibly recognises NZX Listing Rules are materially equivalent to the ASX Listing Rules.

Voluntary delistings

We also support ASX's proposed amendment that will require dual listed entities first listed on the ASX to obtain shareholder approval before voluntarily delisting. It is appropriate that any carve-out applies only to entities with readily tradeable securities on the foreign exchange to reduce the impact on the company's Australian shareholders.

Large share-funded takeovers

SIAA did not support changes to the Listing Rules that would restrict the ability of entities to undertake merger activities and, if ASX proceeded with its proposed listing rule changes, argued for a carve out allowing entities to seek standing shareholder approval to issue capital that would provide them with flexibility to pursue merger opportunities.

We are pleased that ASX's proposed amendments only apply to entities in the S&P/ASX 300 index as this provides smaller entities with much needed flexibility to undertake transactions. We also support the introduction of a standing shareholder mandate to increase or decrease the 25% cap (not to exceed the 100% reverse takeover cap). The market will need to see some live examples of entities availing themselves of this mechanism before it can fully understand the impact of this change. At issue will be whether shareholders will vote in support of a mandate without knowing the terms of the transaction and what information they (and the proxy advisers) will require to support the resolution.

SIAA recommends that ASX undertakes a formal review of the impact of the changes after they have been operating for two years to ascertain if they have been effective in ensuring shareholder protections while not unduly restricting the ability of listed bidders to undertake mergers and acquisitions.

We have provided additional feedback on the proposed amendments to the Listing Rules on large share funded takeovers in our response to question four below.

Broader significant transactions framework

SIAA did not support changes to the Listing Rules to require security holder approval of transactions changing the nature or scale of an entity's activities and we are pleased to see that no rule amendments are proposed.

Our feedback to the specific consultation questions is below.

Consultation questions

Question 1 – 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?

SIAA has no feedback on this question.

Question 2 – 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?

SIAA has no feedback on this question.

Question 3 – 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?

SIAA recommends that rather than proceed with the October implementation date, the market be given an additional month to become informed about the changes.

Question 4 – 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?

We do not agree that the post-approval issuance period should be standardised across approvals to 12 months. While we consider the standing shareholder mandate for entities in the S&P/ASX 300 index should be longer than 12 months, we consider that a three-year period may create too much uncertainty for shareholders and the market. For this reason, a 24-month period may be preferable and assist with the approval process. **We recommend** that this issue be included in the two-year review of the rule changes that we referred to earlier in our letter.

Conclusion

If you require additional information or wish to discuss this submission in greater detail please do not hesitate to contact SIAA's policy manager, Michelle Huckel, using the contact details in the covering email.

Yours sincerely

Maria Lykouras

Maria Lykouras
Chief Executive Officer