

30 November 2012

Ms Mavis Tan
ASX Limited
20 Bridge Street
Sydney NSW 2000
By email: mavis.tan@asx.com.au

Dear Ms Tan

ASX Consultation Paper – Review of Listing Rules Guidance Note 8: Continuous Disclosure

ACSI would like to make the following brief submission in response to ASX's October 2012 consultation paper concerning the revised *Guidance Note 8 on the operation of ASX Listing Rules 31-3.1B* and its accompanying *Abridged Guide* and consequential Listing Rule amendments.

1. About ACSI

The Australian Council of Superannuation Investors (ACSI) represents 38 profit-for-members superannuation funds who collectively manage over \$350 billion in investments on behalf of Australian superannuation fund members.

As long-term fiduciary investors, ACSI's members believe that transparent, fair and accountable market practices are essential to sustained wealth creation and capital market integrity. Companies, investors, regulators and policy-makers alike have a responsibility to pursue equity among all market participants, as well as promoting the expansion of companies and increasing transaction volumes and liquidity of markets.

The continuous disclosure regime encapsulated in the Corporations Act and in the ASX Listing Rules 3.1-3.1B is clearly one of the cornerstones of advancement of these principles in the Australian listed equity and debt markets.

2. Comments on the Consultation Material

As a general observation, ACSI commends the ASX for updating the Guidance Note to reflect current market circumstances and recent judicial interpretations and regulatory developments. We believe that the revised Guidance Note and, most particularly, the *Abridged Guide*, make significant advances in clarifying the intent and practical application of the continuous disclosure rules and how directors and managers of listed entities can best manage their organisations' adherence to these rules.

We do not have detailed substantive comments to make on the drafting or other details of the Guidance Note itself, apart from noting that these appear to be generally comprehensive, practical and digestible.

We would however like to make particular reference to the following items in the proposed amendments to the Listing Rules, which we are pleased to see being confirmed by the ASX as attracting a continuous disclosure requirement:

- The material terms of any employment, service or consultancy agreement which an entity enters into with its CEO, director(s) and/or any related parties (proposed LR 3.16.4)
- Copies of notices received from security holders calling, or requesting the calling of, or proposing to move a resolution at, a general meeting (proposed LR 3.17.2)
- Information obtained by the entity about the ownership or control of its securities under the tracing provisions of the Corporations Act or any equivalent overseas provisions (proposed LR 3.17.3)

We agree that the routine disclosure of the above items reflects the reasonable expectations of investors and therefore should not remain subject to any additional criteria such as a subjective ‘materiality’ assessment by the disclosing entity, or a numerical threshold such as the uncovering of a previously-undisclosed substantial shareholding. ACSI therefore urges the ASX to persist with these proposed amendments even if they are opposed by any other respondents to the consultation.

In addition, ACSI is pleased to see additional content in the “Principles” section of explicit statements that “Information should be disclosed to enable investors to assess an entity’s corporate governance practices”, and that “the practices adopted in relation to meetings and other communications with security holders should facilitate constructive engagement.”

The inclusion of these items generally accords with the positions ACSI is pursuing in other consultation forums which touch upon similar issues of corporate governance best practice and disclosure. These include the CAMAC Review into the AGM and Shareholder Engagement, the Review of the ASX Corporate Governance Principles, the Treasury review of takeover regulation and the current ASIC consultation on improvements to companies’ Operating & Financial Reviews. For the sake of brevity we will not reproduce all of our positions on these issues here, other than to note that the Guidance Note on Continuous Disclosure appears to be broadly in accordance with our preferred stance.

I thank you for the opportunity to provide ACSI’s comments and would of course be happy to discuss any of the details with you should you so require.

Yours sincerely,



Ann Byrne
Chief Executive Officer