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ASX Regulatory Policy
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The Australian Council of Superannuation Investors (ACSI) welcomes the opportunity to provide a submission on the proposed changes to the ASX Listing Rules.

ACSI represents 34 profit-for-members superannuation funds who collectively manage over $400 billion in investments on behalf of Australian superannuation fund members. Our membership also includes a number of major overseas pension funds with significant investments in the Australian listed equity market. As long-term investors, ACSI's members believe that good corporate governance is essential to sustainable long-term performance.

To this end, ACSI supports the proposed governance-related amendments to the ASX Listing Rules and provides specific comment on two of the proposed changes.

New Listing Rule 3.19B

ACSI strongly supports the proposed Listing Rule 3.19B as it significantly improves transparency where companies purchase shares on-market for employees and directors. Enhanced transparency of these purchases is important as, in ACSI's view, they are equivalent to share buybacks, insofar as they involve a company (or third parties on the company's behalf) entering into a transaction to purchase its own shares on-market.

In this context, we would encourage the ASX to consider the applicability of proposed Listing Rule 3.19B to transactions where a company enters into an agreement with a third party (for example an investment bank) to purchase shares on-market on the company's behalf for its directors or employees, other than through a direct on-market acquisition. In ACSI's experience, this is often achieved through derivative transactions, such as forward purchase agreements. We would encourage the ASX to consider this issue and to ensure that these types of transactions fit within the scope of new Listing Rule 3.19B.

On the issue of timing, we note that the new Listing Rule 3.19B requires disclosure within 5 business days of a relevant purchase. While this is consistent with the existing notice period for changes in director holdings, ACSI's preference would be for reporting to occur as close (as is practical for companies to report) to the share purchase as possible. Given the sophistication of trading information on the ASX, and other continuous disclosure requirements on companies, reporting within 1-2 business days would not seem unreasonable. In ACSI's opinion, a shorter deadline for reporting would ensure that the market is fully informed of these transactions in a timely manner – particularly in the case of less liquid stocks where such share purchases may affect the market in the shares.

A shorter notification timetable would also be consistent with buy-back requirements, where the Listing Rules require a daily notification of changes prior to the market opening, or the substantial shareholding provisions of the *Corporations Act* (2001) which demand disclosure within two business days.

Amendments to Listing Rule 10.14

ACSI notes that a range of issues related to the operation of Listing Rule 10.14 have been discussed as part of the ASX's review. While the ASX may not necessarily agree at present, ACSI remains concerned by the fact that Listing Rule 10.14 continues to allow listed entities to avoid seeking shareholder approval for shares bought on-market for directors. ACSI would strongly encourage the ASX to revisit this issue, and it should be noted that is an established governance norm among ASX200 companies to seek approval for on-market purchases made on behalf of executive directors.

Conclusion

Overall, ACSI commends the ASX on its proposed changes to the ASX Listing Rules. Improved transparency of on-market purchases is a welcome addition to the Listing Rules. It is ACSI's strong opinion that this addition would be reinforced by the removal of the on-market exception which currently exists in Listing Rule 10.14.

We would be more than happy to discuss any aspect of this submission at your convenience.

Yours sincerely,

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