



# OWNERSHIP MATTERS

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Daniel Moran  
Office of general counsel  
ASX Limited  
**Email:** [regulatorypolicy@asx.com.au](mailto:regulatorypolicy@asx.com.au)

**RE: Submission on 'Review of ASX Listing Rule 7.1A'**

Dear ASX,

Thank you for the opportunity to comment on the review of ASX Listing Rule 7.1A. Ownership Matters (OM), formed in 2011, is an Australian owned governance advisory firm serving institutional investors. This submission represents the views of OM and not those of its clients.

The submission comments that the fact 94% of the 1,991 resolutions put to shareholders under Listing Rule 7.1A have been passed as evidence it has been well received by investors. The rate of opposition is however relatively high – OM notes for S&P/ASX 300 entities that binding resolutions supported by the board typically pass on close to 99% of occasions. In 2014 for example of the 1506 binding resolutions put to shareholders the board was defeated on 18 and that was an unusually high level of dissent based on outcomes over the past decade. A rejection rate of 6% for a 'routine' management endorsed resolution over three years indicates investors are unusually willing to oppose this category of resolution. In 2014 for example, of the 108 placement resolutions put to S&P/ASX 300 shareholders none were withdrawn due to investor opposition or defeated.

OM cannot see significant problems arising as a result of the proposed changes to disclosure requirements and how discount limits are calculated under Listing Rule 7.1A. OM would however like to emphasis its support for the existing requirement under Listing Rule 7.3A.6(b) bullet point three which requires disclosure in a notice of meeting seeking Listing Rule 7.1A approval of the names of those persons who received allotments in the past 12 months under a prior 7.1A approval. This allows other investors to scrutinise allocations of equity allocated under Listing Rule 7.1A and reduces the opportunity for boards to consistently abuse 7.1A approvals.

As a related issue, OM notes the ASX is provided with the identities of the recipients at the time allotments under Listing Rule 7.1A are made. It is not clear why this information should not also be provided to the market at the same time. This would enable more current policing of board use of Rule 7.1A.

We believe contemporaneous disclosure would strengthen shareholders' ability to discipline errant boards under this regime, however a far better approach to ensure equity between shareholders, would be to exclude any investor who has received a share

allotment under the placement mandate in any 12 months from voting on the renewal of the placement mandate at its next anniversary. This would be an elegant solution to the absence of voting exclusions on the placement mandate resolution itself and the potential for beneficiaries of placement largesse (either individually or as a class) to be in an ever-more dominant position to approve subsequent placement mandates.

Finally OM notes that ASX observes "nothing has come to ASX's attention to indicate that the existing restrictions on issues to related parties under rule 10.11 has been undermined by the introduction of the rule". It is not clear how rigorously ASX polices issues of securities under Listing Rule 10. OM is aware of one instance where an S&P/ASX 300 entity – Village Roadshow – issued new shares to the child of a director in breach of Listing Rule 10.14 without the ASX being aware of this occurring until it was brought to its attention. This reinforces the need for transparent and speedy disclosure to the market as a whole of recipients of allocations under Listing Rule 7.1A to enable the market to police potential related party abuses given the resource constraints under which the ASX's supervisory activities operate.

As a final note it is disappointing that the ASX has not made the full data on raisings under Listing Rule 7.1A publicly available. At the time of the rule's introduction ASX made a public commitment to a 'thorough review' of its operation and the only review of raisings cited by ASX is a non-peer reviewed study by an external party reviewing less than 5% of all raisings under Listing Rule 7.1A. This is not a thorough review.

Please feel free to contact us concerning any aspect of our submission.

Yours sincerely,

Handwritten signatures of Dean Paatsch and Martin Lawrence in blue ink.

Dean Paatsch & Martin Lawrence

Ownership Matters Pty Ltd