

3 March 2023

Mr Allan Bulman
Director
Takeovers Panel
Level 16
530 Collins Street
Melbourne VIC 3000

By email: takeovers@takeovers.gov.au

AUSTRALIAN SHAREHOLDERS' ASSOCIATION – CONSULTATION ON TAKEOVERS PANEL GUIDANCE NOTE 7 AND 19

Dear Mr Bulman

The Australian Shareholders' Association (ASA) represents its members to promote and safeguard their interests in the Australian equity capital markets. The ASA is an independent not-for-profit organisation funded by and operating in the interests of its members, primarily individual and retail investors, self-managed superannuation fund (SMSF) trustees and investors generally seeking ASA's representation and support.

Thank you for the opportunity to submit comments to the *Consultation on Guidance Notes 7 Deal Protection and 19 Insider Participation in Control Transactions*.

We support the added clarification in the proposed update to the guidance notes.

Retail shareholders often feel marginalised and uncertain when control transactions are under proposal. In part this is due to the lengthy process to get to the point of shareholders voting on a scheme or being made aware there will be no scheme, but also reflects the information asymmetry. Retail investors generally experience greater information asymmetry than professional investors, given their diverse backgrounds and their carrying out investing while usually generating income by non-investment employment or roles. They don't have the time to keep up to date with specific drawn out control transactions or to research how they usually proceed or terminate.

Guidance Notes such as these are helpful in providing context and setting expectations for the retail shareholder.

We also highlight the importance of retail shareholders being kept informed of a likely timetable for the deal contemplation, and advised as quickly as possible when it becomes apparent that a deal will not eventuate.

Guidance Note 7: Deal Protection

We agree with the recognition of the complexity in and dynamic nature of the target board's role in responding to a control transaction proposal, and the need for target boards to balance all relevant circumstances. We support the Panel expectation that target boards will reject deal protection devices that individually or in aggregate have the effect of reducing meaningful competition for control.

Guidance Note 19: Insider participation in control transactions

We support the broadening of the definition of insider participation to capture a shareholder with material non-public information obtained through its nominee on the target board.

If you have any questions about these comments or other matters, please do not hesitate to contact me (ceo@asa.asn.au), or Fiona Balzer, Policy & Advocacy Manager (policy@asa.asn.au).

Yours sincerely



Rachel Waterhouse
Chief Executive Officer
Australian Shareholders' Association