Monday 20 March 2017

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Ms Jodi Keall
Senior Advisor
Financial Systems Division
100 Market Street
Sydney NSW 2000

Dear Jodi,

Computershare's Response to the 'Increasing Transparency of the Beneficial Ownership of Companies' consultation paper (Consultation Paper)

We appreciate the opportunity to provide our feedback on this Consultation Paper and look forward to further engagement as you progress this initiative.

Computershare (ASX: CPU) is a global market leader in share registration and transfer agency, employee equity plans, mortgage servicing, proxy solicitation and stakeholder communications. We also specialise in corporate trust, bankruptcy, class action and a range of other diversified financial and governance services.

Founded in 1978, Computershare is renowned for its expertise in high integrity data management, high volume transaction processing and reconciliations, payments and stakeholder engagement. Many of the world's leading organisations use our services to streamline and maximise the value of relationships with their investors, employees, creditors and customers.

Computershare is represented in all major financial markets and has over 16,000 employees worldwide. In Australia, we employ approximately 1,700 staff across a range of national locations.

Both locally and globally, Computershare has long been an advocate of ownership transparency and it recognises the importance of such transparency in promoting confidence in financial markets. Our experience in proxy solicitation, communications services and registry maintenance gives us valuable insight into the tools available to help achieve this policy goal.

Whilst we acknowledge and agree with the Minister's comments about improving transparency of ownership and control as a means of countering the misuse of companies for illicit activities, there are additional benefits that we see will flow to both issuers of securities as well as their investors (and the market more broadly). Computershare has participated in numerous consultations and discussions here in Australia and internationally that have examined various issues relating to investor transparency. We note that the Consultation Paper outlines a number of international examples. In light of this, we have attached as Appendix 1 Computershare's response to the UK's Department for Business Innovation and Skills consultation from September 2013, in which we addressed the UK's own discussion paper on Transparency and Trust and considered very similar issues to those that have been canvassed in Treasury's Consultation Paper.

We note that Computershare has considered Treasury's Consultation Paper from its own unique perspective as a provider of registry related services to issuer clients, drawing on its local and international experience of transparency and shareholder disclosure issues. Rather

than respond to each individual question, we have structured our response to address a number of broad themes that we see arising from the Consultation Paper.

1. Listed entities to be exempted from additional disclosure requirements

Computershare takes the view that entities listed by any approved securities market operators should be exempt from the proposed new disclosure requirements, on the basis that the existing substantial shareholder disclosure regime applicable to such listed issuers is adequate and introduction of additional obligations would be unduly burdensome. (Note: we have used the term 'listed entities' to cover different types of listed structures, including Trusts, Listed Investment Companies, and funds, as well as companies.)

As the Consultation Paper highlights, there is a strong international precedent for this approach, and the UK position is particularly relevant in light of the substantial similarities between UK and Australian disclosure requirements for listed entities. We therefore believe that the current regime already delivers an appropriate reporting framework and adequate level of transparency for listed entities and that their exclusion from any new requirements to report on beneficial ownership is warranted on that basis.

2. Information on beneficial owners

We appreciate the difficulty in establishing an appropriate definition for 'beneficial owner with controlling interest in a company' in the context of Treasury's contemplated legislative change initiative. In our view, the definition of 'beneficial owner' should address the natural person with not only economic interest but other forms of control over an entity, including voting rights. Whilst we do not take a view on the appropriate mechanism(s) to determine control, we do note that the European amendments to the 4th Anti Money Laundering Directive currently under discussion are expected to reduce the percentage ownership threshold from the current 25% to 10% for certain companies ('Passive Non-Financial Entities').

Establishing the definition of a 'beneficial owner with a controlling interest in a company' is an interesting and challenging task, as there are a number of ways that securities can be 'controlled'.

Take for example an Australian Superannuation Fund that has its own Corporate Governance unit. The Super Fund may have appointed an external fund manager with a mandate to manage $50 million of funds by investing in various securities. Clearly this is one example of control. Then when the listed entity has its annual general Meeting, the Super Fund may take back the voting rights attached to those shares and will, through its own views, cast its votes. This is another example of control.

Should the fund manager wish to buy more shares or sell shares in the company – it is up to them as per their mandate – they are exercising control over those shares. However, when certain resolutions are put forward and the trustee or custodian of the Super fund then votes – they are exercising control over those shares.

3. Nominee/Custodian transparency & process

Computershare has long advocated on behalf of its clients for improvements to the often opaque account holding structures that are maintained by many custodian and nominee organisations. These 'omnibus' accounts see the assets of often large, institutional investors

co-mingled together and recorded as one single holding on an issuer's register in the nominee/custodian's name as legal owner of the securities (with the investors maintaining beneficial ownership).

We highlighted this issue in our response to the Corporations and Markets Advisory Committee (CAMAC) consultation in December 2012 (Appendix 2). Whilst the CAMAC consultation was focussed on Annual General Meetings and shareholder engagement, many of the issues that were highlighted stemmed from the use of omnibus holdings and the lack of transparency that arises as a consequence.
We note investors have varying reasons for their chosen securities account structure, and we agree that they should retain the flexibility to have their investments registered in the name of another party such as a nominee or custodian. It is however important to highlight that investors (particularly institutional investors) have the option to use designated nominee accounts rather than pooled accounts, where the securities of multiple investors are not commingled. While this option does not facilitate direct identification of the beneficial owner to the issuer, it is a relevant and potential solution to the lack of transparency created by the use of pooled accounts. Computershare believes that those institutions that continue to prefer holding via a nominee should be encouraged to use designated accounts instead of pooled accounts, and that Treasury should consider the designated account as the default structure (at least for institutional shareholders), which in turn should deliver increased transparency of beneficial ownership.

Should investors prefer to still hold their assets in a pooled account, then we see a strong argument that the reporting obligations and costs should also sit with that investor or their custodian/nominee, rather than the issuer. Transparency, whether it is needed to counter illicit activities or whether it is aiding better, more informed dialogue between issuers and their investors, is hampered by the use of these omnibus accounts.

In view of the use of nominee account structures, we recommend that Treasury carefully consider the allocation of responsibility for disclosure in formulating its approach to any platform for legislative change. For example, we would not consider it equitable to require issuers to conduct regular beneficial owner disclosure searches pursuant to s.672 of the Corporations Act, given the cost implications for issuers. Where investors choose to use nominee structures that obscure their ownership position, there should be an obligation on the investor to disclose their identity and non-compliance should be subject to appropriate sanctions.

We note that while s672 provides issuers with a statutory right to require disclosure of beneficial ownership, the process for obtaining such disclosures remains highly manual and time-consuming. It also makes it highly problematic and does not readily enable issuers to determine ownership 'as at' a certain date, which may impact effectiveness as a regulatory tool. To enable issuers to effectively utilise this tool in the contemplated context (and more broadly), consideration should be given to enhancing the practicability of the relevant legislative provisions and establishing market standards to facilitate efficient, timely and electronic disclosure processes.

4. Central registers

We note that at present the records of beneficial owners obtained by issuers through s.672 disclosures are held either directly by the issuer or on their behalf by their agent. To require issuers to report their beneficial owner data to a central register will likely drive up

administrative costs and as such, these costs would need to be properly quantified and evaluated before any enabling legislation is passed.

In the event that Treasury does consider, on balance, that a central register is required for reporting and sharing the information with relevant parties, it would be appropriate for Treasury to consider outsourcing the administration of this to a private operator. It is highly likely that the content requirements for such a central register would be similar to those of ordinary securities registers, and thus with a number of existing commercial providers already able to fulfil this function in the Australian market, it is anticipated that significant synergies could be obtained from an outsourced approach. Some 99.5% of ASX listed entities utilise the services of a commercial share registrar such as Computershare, which illustrates that the requisite systems, skills and expertise are readily available in the marketplace. This would ensure that these services would be subject to the usual competitive pressures and deliver commercially attractive and innovative solutions to the relevant regulators and the market place.

We look forward to engaging with Treasury (and, where appropriate, broader stakeholders) on the issues addressed in our response and others that arise during the course of the ongoing consultation project. Thank you for the opportunity to make this initial submission.

If you have any questions in relation to our detailed comments, please contact me at Greg.Dooley@Computershare.com.au or at (02) 8216 5513.

Yours sincerely,

Greg Dooley
Managing Director
Computershare Investor Services

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16th September 2013

Department for Business Innovation & Skills

By email to: transparencyandtrust@bis.gsi.gov.uk

Dear Sir/Madam

Response to the 'Transparency & Trust: Enhancing the transparency of UK company ownership and increasing trust in UK business' discussion paper

We are pleased to submit comments on behalf of Computershare Investor Services PLC (Computershare) to the above discussion paper.

The Computershare group is a global provider of share registration, employee equity plans, proxy solicitation and other specialised financial, governance and communication services. Many of the world's largest companies employ our services and solutions to manage their relationships with investors, employees, and other stakeholders. For more information, please visit www.computershare.com.

We have long been an advocate of ownership transparency and recognise the importance of transparency in promoting confidence in financial markets. Our experience in proxy solicitation, communications services and registry maintenance gives us valuable insight into the tools available to achieve the policy goals effectively.

Beneficial ownership & requirement to disclose (Sections 2.18-2.20, 2.26-2.34; Q 1,5,6)

In the event that companies are required to take steps to identify their beneficial owners, as defined, clarity on the respective responsibilities of the companies and of investors will be critical. In considering a requirement on companies to actively identify their beneficial owners, it is necessary to take into account their capacity to achieve this. Drawing on our experience in this area, we have commented below on the process for obtaining disclosure under s.793 and the responsiveness of intermediaries and investors. We believe that where companies are required to investigate their beneficial ownership, responsibility should continue to rest with the intermediaries and investors for complying with such disclosure requests.

We also note that there are proposals in relation to the 4th Anti-Money Laundering Directive to reduce the percentage for defining ownership and control to 10%, rather than the 25% level considered in the discussion paper. It is important that the relevant standard for disclosure is determined, to allow companies to fully understand the impact of the proposed requirements.

Methods of disclosure (Sections 2.26-2.34, 2.45-2.49, 2.50-2.54; Q4, 13 - 17)

We agree that an extension of Part 22 of the Companies Act to all companies is appropriate to enable companies to more fully understand their beneficial ownership structure. Where such rights are already

enjoyed by companies they are highly valued, acting as a powerful mechanism to enable a company to understand who has an interest in their shares.

It is important to understand that whilst the substance of the powers under Part 22 is very useful, there are some areas of concern in relation to the system for utilising these powers. These fall into two areas:

1. **Compliance by investors**: Issues with enforcement, particularly in connection with overseas investors, who do not always understand the obligation to respond, along with timeliness can be a particular challenge. Whilst the Companies Act does contain strong penalties for non-compliance with a disclosure request made under s.793, including the possibility of imprisonment or a fine (or both), in our experience these penalties are rarely imposed. A review of the enforcement regime in connection with non-disclosure may therefore be advisable.

   Such factors need to be adequately reflected in any proposals and in particular in determining the obligations an issuer might have in connection with disclosure timescales and accuracy of the response made by investors. In our view, companies should not therefore be held responsible for any lack of response by investors to a s.793 disclosure request, or for the accuracy of the response made by investors.

2. **The process and mechanisms for requiring s.793 disclosure**: Additional challenges arise from variance in format and content of s.793 enquiries by respondents and companies. Consideration should be given to a whether a more standardised approach would benefit the market, particularly where such information is potentially required for onward submission to Companies House.

   Currently, responses can be in jpeg, Word, Excel, PDF, paper or indeed any other format, and there are no minimum content standards. The data returned may require considerable further analysis to ensure adequate identification is made. As disclosure requests are sent in the first instance to CREST nominees, responses are often received from the corporate entity operating that nominee, without necessary containing any correlating information tying the response back to the nominee's shareholding. In that case, industry knowledge is required to ensure responses are reconciled back to the registered share positions.

   A greater level of standardisation in the format of responses to s793 enquiries will create efficiencies for the market in respect of associated processes; reduce the risk for inaccuracies and add consistency to the register of beneficial owners. At a minimum, the requirement to provide the responses in electronic format should be introduced. We also note that work has been undertaken by the T2S Taskforce on Transparency and there are continuing market discussions regarding standardised messaging for issuer disclosure requests.

Registry Maintenance (Sections 2.39-2.44, 2.55-2.57, 2.61-2.64; Q11, 19, 22)

Based on our extensive experience in shareholder registry, both in the UK and globally, we understand the desire for a consistent approach. Having said that, the information currently stored on a legal register (the Register of Members) differs from the information typically provided in response to s.793 enquiry. The legal register contains details of the names (including any account designations) and addresses of members, the date on which each person was registered as a member, the date on which they ceased to be a member and the number of shares held. A s.793 response would not typically, for example, include details of when a beneficial holder acquired the shares, though this can be requested by a company as part of their original s.793 enquiry. BIS should satisfy themselves that the Act gives companies the ability to ask for the relevant information in their s.793 enquiry. If the Act does not currently provide such scope, it would need to be amended accordingly.

On a related note, we would like to flag changes under consideration as part of negotiations on the 4th Anti Money Laundering Directive which have the potential to impact the data held on the legal register.

Under proposals tabled by several member states (Article 29 – paragraph 1 – 1a, see amendments 183-187 of the latest draft from the Committee on Economic and Monetary Affairs), it is proposed that the legal register should in future include dates of birth and nationality for individuals, and company number and jurisdiction of incorporation for corporate or legal entities. The aforementioned information is not currently held on the UK legal register of members. If these requirements are carried through in the EU Directive and thus ultimately must be incorporated into UK law, we suggest consideration of the appropriate balance between the potential regulatory benefit derived from the additional data compared to the challenges of data collection, particularly for the several million existing registered shareholders in the UK.

We agree that the register of beneficial owners should be publicly available. Presently, where a company employs s.793, a 'register of interests' is already maintained and available for public inspection subject to a 'proper purpose' test (see Section 811 of the Companies Act). We believe a similar approach should be adopted for beneficial ownership in the context contemplated by the discussion paper, for consistency and to minimise risk of information in the registry being used for fraudulent purposes.

We believe that the responsibility for maintaining the register of members for public companies should remain with an issuer or their appointed agent. The content of public registers is dynamic, with transfers of title and other changes to shareholder data required to be managed continuously. While it may be argued that private companies with small, stable shareholder bases should have their register of members publicly available at Companies House, we do not believe this would therefore be appropriate for public registers. We look forward to reviewing and commenting on any proposals you might make in due course regarding a policy change to the register of members.

Bearer Shares (Q27-30)

We agree with the proposal to phase out the use of bearer shares, to enhance transparency in share ownership, subject to a suitable transition period being established for those already in circulation. We believe that an 18-24 month window would be appropriate to allow for a managed phasing out of existing bearer instruments and their conversion into registered format. You may also wish to consider the position of debt securities, which commonly trade in bearer form.

Please contact me on 0870 889 3113 or at michael.sansom@computershare.co.uk if you require any further information in relation to our response.

Yours faithfully

Michael Sansom
Head of Industry Relations
Computershare Investor Services

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Friday 21 December 2012

Mr John Kluver
Executive Director
Corporations and Markets Advisory Committee
GPO Box 3967
SYDNEY NSW 2001

Dear Mr Kluver,

RE: The AGM and shareholder engagement

Computershare welcomes the opportunity to respond to the Corporations and Markets Advisory Committee's (CAMAC) 14 September 2012 discussion paper *The AGM and shareholder engagement.*

Computershare is the global market leader in transfer agency and share registration, employee equity plans, proxy solicitation and stakeholder communications. Today, we service 100 million shareholder and employee accounts on behalf of 14,000 corporations. We manage around 480 Annual General Meetings in Australia on behalf of listed and unlisted companies, providing meeting services including proxy collection, shareholder registration and voting services for more than 60% of ASX200 companies.

Computershare has lobbied for and consulted on change in this area in other jurisdictions, including North America and the United Kingdom and has long taken an active interest in AGM reform in Australia. We believe that the depth and breadth of our experience and our insights into shareholder thinking and behaviours will help CAMAC formulate its recommendations to the Australian Government.

Our response addresses a number of questions for consideration and also puts forward one additional substantive policy recommendation that we believe is within the scope of CAMAC's review. We suggest that institutions and nominees should actively be encouraged to use designated accounts rather than pooled accounts, so as to facilitate direct communication and engagement between shareholders and companies, in particular institutional shareholders. This change would significantly improve the communications and voting process by removing one or more unnecessary layers of intermediation in the voting process.

We welcome the opportunity to participate in further discussions, including any round table discussions or papers, and look forward to working with CAMAC to promote positive change in our industry.

Sincerely,

Greg Dooley

Managing Director
Computershare Investor Services

Computershare

2.2 ISSUE 1: SHAREHOLDER ENGAGEMENT

2.2.3 Aspects of engagement – the role of institutional shareholders

Computershare believes that institutions and nominees should be encouraged to use designated accounts instead of pooled accounts and the Federal Government should consider the designated account as the default for institutional shareholders. We have been campaigning for some time now on what we believe is an obvious solution that will fix a number of the issues highlighted in the CAMAC discussion paper.

The difference between pooled and designated accounts

A pooled account is the combination of client assets held through an omnibus account in the name of the custodian or its nominee, rather than in individual accounts for each underlying client. For example, HSBC Custody Nominees (Australia) Limited or National Nominees Australia Limited.

A designated account is the segregation of underlying investors into individual accounts on the share register. For example, QIC Limited <c/- National Nominees Limited> or INVIA Custodians Pty Limited <Sample Superfund>.

Designated or segregated accounts can be established within CHESS and directly on the share register, facilitating direct communications and voting between companies and shareholders.

Issues surrounding pooled accounts

Any review of the AGM and shareholder engagement must include a review of the mechanics of the proxy system and, more importantly, the institutional proxy system in Australia. The current practice of custodians and nominees holding institutional investors in pooled account structures rather than in designated accounts named on the company register, in order to reduce their own internal operational costs, is causing market inefficiencies including:

- Over-voting
- Transparency issues
- Timeframe concerns

Over-voting

Over-voting occurs when more shares are instructed to be voted than the actual number of shares owned by a registered shareholder. It can occur when there is an imbalance between the perceived voting entitlements of individual investors whose shares are pooled with other investors and/or traders within a nominee and the actual (lesser) shares and voting entitlements held by the nominee on the share register.

In the 2012 season Computershare recorded in excess of 150 over-votes which had an impact on 79 meetings. This meant that votes were either disregarded in their entirety or that significant rework was required by all parties to ascertain the true voting position. The custodian/nominees generally represent the largest holders on a company's register (an average of 40-60% of the issued capital). The use of

pooled accounts (which lead to over-voting) is unintentionally disenfranchising beneficial holders and impacting on companies.

Transparency issues

Pooled accounts cause several issues relating to transparency:

- Pooled accounts do not facilitate a direct audit trail or confirmation process between the company and shareholder, whereas a designated account can facilitate certainty of the vote lodged and is readily traceable.
- Pooled accounts rely on offshore manual rekeying of meeting information (including meeting resolutions and vote exclusion details) which can introduce errors and misinterpretation.
- Companies do not automatically know who has the voting rights and who is making voting decisions under a pooled account structure. This is further compounded when stock is lent.

Computershare believes that these issues will become more prominent and more costly for companies and shareholders as institutional shareholders, superfunds and pension funds increasingly vote their shares and make their vote preferences public.

Concerns about timeframes

We note the current debate about increasing or changing the existing timeframes for voting entitlements and proxy close. Rather than making a wholesale change that has an impact on the entire industry, this issue can be resolved by the use of a designated account, as the cut-offs imposed by each link in the voting chain would no longer be required.

Recommendation: Institutions and nominees should be encouraged to use designated accounts and consideration should be given to making designated accounts the default for institutional shareholders. Rather than market participants such as custodians pushing for changes to the legislative environment to overcome the lack of transparency caused by the administrative approach they adopt, they should be asked to explain why they cannot use designated accounts to solve the identified issues.

2.4 ISSUE 3 – THE AGM

2.4.2 Current functions and format

Technical amendments to the Corporations Act

Computershare also proposes a number of technical amendments to the Corporations Act to allow for the more efficient conduct of meetings and to address some inconsistencies that presently exist within Part 2.G of the Corporations Act. These recommendations are:

- Addressing inconsistencies within Part 2.G of the Corporations Act
- Allowing the Corporations Act to adapt to technological changes

Addressing inconsistencies within Part 2.G of the Corporations Act

Computershare notes that certain provisions of the Corporations Act, relating to the conduct of meetings for companies in Part 2.G2, do not appear in the corresponding sections of the Act relating to registered schemes in Part 2.G4. Examples includes section 250BC (transfer of non-chair proxy to chair in certain circumstances) and section 250B (proxy documents). We are not aware of any policy reasons why a listed company and a listed management investment scheme should be treated differently, and these inconsistencies are particularly apparent for a listed entity that has issued a stapled security (which comprises a share in a company stapled to a unit in a scheme).

Recommendation: Address inconsistencies contained within Part 2.G of the Corporations Act.

2.4.3 – Future functions and format

Allowing the Corporations Act to adapt to technological changes

Computershare notes that the Corporations Act currently provides specific requirements regarding the authentication of electronic proxy appointments in section 250B. We believe that by prescribing detailed requirements as to the manner in which electronic authentication can occur, the law does not provide sufficient flexibility for companies to take advantage of technological advances as they occur. For that reason, we propose that amendments are made that allow companies to implement authentication processes in a manner that satisfies a general requirement to be of a high industry standard without prescribing exactly what that requirement must entail. This should also apply to any legislation that is proposed to allow for online voting during an AGM (see also our response to question 5.11 below).

Recommendation: Amendments should be made to the Corporations Act that allow companies to more easily adapt to technological changes.

RESPONSE TO QUESTIONS FOR CONSIDERATION

Computershare has elected to respond only to the questions for consideration where we believe we can provide insight into shareholder thinking and behaviours and/or where our experience in meeting management and proxy processing will be of benefit to CAMAC.

5.3 CONDUCTING THE AGM

5.3.1 Timing

Should there be any change to the statutory time frame for holding an AGM?

Computershare cautions against an extension of the statutory period for holding the AGM where an extension would result in the deadline for holding the AGM falling within the Christmas holiday period. This would hinder shareholder participation rather than encourage it.

In 2012, Computershare managed 112 meetings in the final week of November; this represents 24% of all meetings managed for the year. Rather than extending the deadline, consideration should be given to assisting companies by removing or streamlining some of the current requirements that prevent meetings from occurring earlier.

Recommendation: We don't believe there should be any change to the statutory timeframe. Efficiencies such as those outlined in 5.3.2 should be implemented to assist companies in minimising logistical requirements.

5.3.2 Notice of meeting

How might technology be used to make this notice more useful to shareholders?

Our data shows that shareholders are increasingly using electronic channels for shareholder-related activities. For example, 89% of our surveyed shareholders say they source information directly from company websites, and 50% pay to access online content from news or industry commentator sites. We have also observed that a growing number of shareholders choose to update their information and obtain information from the registry online. In 2011, 64% of the 1.2 million shareholder contacts that we received were carried out via the web.[1] Computershare has observed that in 2011 20.7% of voting shareholders opted to lodge their proxy vote online, when online voting was offered. Indications are that this number will increase to 23.4% in 2012.

Electronic dissemination of AGM documentation

The Simplified Regulatory Reporting Act of 2008 was changed to allow companies to require shareholders to opt in to receiving hard copy annual reports rather than the previous opt out requirements. This change had a positive environmental impact and significantly reduced costs for

[1] Computershare's Securityholder Contact Satisfaction Monitor, January – June 2012

companies without disenfranchising shareholders. Our data shows that 7% of shareholders opt to receive a hard copy annual report.

If there was regulatory change that mandated companies to disseminate meeting information to shareholders electronically, this could lead to more satisfied and engaged shareholders and would promote the use of technology in shareholder engagement.

While there have been some advances in the electronic delivery of information, including Notices of Meeting and Proxy Cards, shareholder communications have predominantly remained paper-based. Nearly 80% of the shareholders we surveyed said they would prefer to receive their AGM communications electronically (email, SMS or digital mail box). However, our data shows that the actual average number of shareholders who receive their Notice of Meeting via email is 18.5%.

Shareholders commented that companies are inconsistent when it comes to sending AGM documentation via electronic means.

Our research and experience shows an increased propensity to receive and source information electronically. This behaviour is consistent with all aspects of shareholder activity. We believe the current opt-out approach for paper-based Notices of Meeting and Proxy Forms should therefore be changed to an opt-in approach. In effect, physical paper mailpacks would only be sent to shareholders who had elected to receive meeting communications in this manner. The remaining shareholders would receive notification by email (currently 18.5%), via digital mail post (new) or by sourcing the information online. Using our annual report experience as a guide, we estimate that physical mail packs for Computershare clients would be reduced by six million per annum without negatively impacting shareholder engagement.

Companies could also consider making use of smartphone capabilities. For example, adding in features such as a 'save meeting in calendar' appointment and using Google or Apple Maps to direct shareholders to the meeting venue. In 2012, 13 of the companies that Computershare manages the register for offered mobile voting applications; 6.71% of holders who voted online lodged proxy votes via this channel.

Recommendation: Adopt regulatory change that allows companies to require shareholders to opt in to receive physical proxy material and the Notice of Meeting.

5.3.3 Notice to shareholders holding shares through nominees

Should there be provisions for companies to send information about an AGM directly to the beneficial owners of shares held by nominees and, if so, what type of information?

Computershare does not believe that there should be provisions for companies to send information about an AGM directly to beneficial owners. We do not believe that companies should incur further costs or the administrative burden of communicating with underlying shareholders.

Computershare strongly agrees with the point made in the CAMAC discussion paper about shareholders having the choice to be registered as shareholders directly and thereby receive information directly. Through our role in markets where companies are obliged to send communications directly to underlying shareholders, Computershare has proven experience of the additional cost and administration associated with it. In the UK, for example, under the 'Information Rights' provisions of the Companies Act 2006, at the election of their intermediary, shareholders who hold their shares via a nominee may be entered

onto a 'Register of Relevant Interests' for each UK company in which they hold shares, and thereafter those companies are required to send shareholder communications directly to that shareholder.

The UK Information Rights are currently managed by the intermediary and the take-up is remarkably low due to the high costs involved for all parties. The process does not warrant the expense in the UK, and we believe that the situation would be similar in Australia.

We also note that any material distributed to beneficial owners in relation to an AGM should not include forms for voting. The various nominees through which beneficial owners hold their shares have different timings and processes for receipt of shareholder voting instructions. The nominee should have an affirmative obligation to pass on to its client all AGM information sent by the company to its name-on-register shareholders, and to provide a mechanism for the beneficial owners to provide their voting instructions back to the nominee for lodgement with the Company's register, or otherwise provide the beneficial owner with proxy authority to vote. Where there are further intermediaries in the chain of ownership between the registered nominee and the beneficial owner of the shares, reasonable efforts should be undertaken for each intermediary to pass the information on in a timely manner such that it reaches the beneficial owner. In this regard, we would suggest that CAMAC consider the approach adopted in the Geneva Securities Convention.

Recommendation: Companies should not be required to send information about an AGM directly to the beneficial owners of shares held by nominees. CAMAC should consider the approach adopted by the Geneva Securities Convention in relation to the passing on of shareholder communications.

Should there be any provision for beneficial owners of shares in a company to participate in the AGM of that company and, if so, how?

To ensure the integrity of the shareholder voting process, all participants in the AGM that have the capacity to lodge a vote at the meeting must be capable of showing voting authority that is directly referable to a holding on the share register and capable of being appropriately audited. We therefore believe that a beneficial owner should only be capable of exercising voting authority where they act as a validly appointed proxy of the registered shareholder from whom they derive title, which is the current requirement in Australia.

Australian companies currently have a right to obtain disclosure of their beneficial owners via s. 672A of the Corporations Act. However, we do not believe that this disclosure can be used as a basis for beneficial owners to participate in any voting capacity at the AGM. Such disclosures are snapshots of ownership that are performed at varying times by the responding intermediaries. It would not be feasible – without a substantial investment in infrastructure between companies, intermediaries and institutions – to establish real-time disclosure of beneficial owners in a manner that could facilitate voting. We do not see that such an investment is warranted, particularly in the Australian market structure where shareholders can readily arrange to be directly registered via designated account structures and thus participate in the AGM as a registered shareholder.

It would be unreasonable to require companies to bear any additional cost in facilitating participation at the AGM by beneficial owners for those shareholders who have elected to maintain their shareholding in a pooled account.

We note that there has been discussion internationally on the issue of facilitating access and exercise of rights by beneficial owners. In the European Union, this issue is discussed within the proposed Securities Law Legislation, which has contemplated a right for beneficial owners to directly exercise voting rights.

For the reasons discussed above we have concerns about such an approach. We do, however, appreciate the importance of ensuring adequate arrangements are in place to facilitate the exercise of shareholder rights by beneficial owners.

Recommendation: We recommend that CAMAC look to the provisions of the Geneva Securities Convention with regard to an affirmative obligation on intermediaries that are responsible for administering beneficial owners securities to facilitate the exercise of shareholder rights, including voting. (Note: where a custodian nominee provides an institutional shareholder with a designated account and the shareholder's name is recorded on the CHESS sub-register or the company sub-register, the shareholder will receive their communications directly from the company).

5.8.10 Proxy Voting

What changes, if any, should be made to the current requirements concerning:

- ***the record date and the proxy appointment date***

It is worth noting that the Australian proxy voting processes are better than in any other developed jurisdiction.

In the United States the record date cannot be less than 10 days before the meeting and the record date is often 45 days before the meeting. In our experience this results in 'stale' voting, where the investors have sold out of the stock by the meeting date. In some European jurisdictions, if you want to vote at all, you have to 'block' your shares (deny yourself the right to sell them) for an even longer period before the meeting.

Recommendation: We do not recommend moving the record date as it will introduce concerns about people voting who are no longer shareholders at the time of the meeting.

- ***any other aspect of proxy voting***

Paperless proxy voting

Computershare supports companies having the right to elect to no longer permit receipt of proxies in paper form or by facsimile. Our research shows that 72.9% of surveyed shareholders responded positively to the adoption of paperless voting.

To ensure all shareholders have a readily accessible channel through which to vote, we would also propose that legislation expressly authorises telephone voting (see also our comment below).

Recommendation: Introduce legislation to permit companies to adopt paperless proxy voting.

Confirmation that telephone voting is an acceptable form of electronic voting

Computershare has a facility that allows for telephone voting in many of the jurisdictions where we currently operate and, particularly in North America, lodging a proxy using an IVR phone facility is a commonly used method of voting. Computershare understands that there are currently no legal impediments to lodging proxy votes using a similar facility in Australia, and we believe it would be of benefit if this was either expressly authorised under the Corporations Act or a general provision was

introduced that would allow for companies to accept proxies by whatever channel they choose, provided that there is a general obligation in place to ensure that the authentication processes around delivery of proxies through that channel are of a high standard (consistent with our comment above on electronic proxy appointments).

Recommendation: Expressly authorise telephone voting under the Corporations Act.

Vote confirmation

Through existing online proxy systems, registrars are able to provide name-on-register shareholders with confidence that their voting intention has been received in real time, removing any doubt of lost or late votes. This also provides an audit trail.

Institutional shareholders who are subject to various compliance requirements regarding their proxy voting activities have expressed interest in a confirmation process. In 2009, Computershare introduced vote receipt confirmation for participating custodians which has demonstrated significant efficiencies and transparency of votes lodged. It also gives confidence to their underlying shareholders that intentions have been passed along the voting chain. This process would be simplified if designated accounts were mandated in Australia.

Recommendation: Vote confirmation should be provided as part of electronic voting systems. Custodians and vote service providers remain responsible for confirming votes back to underlying beneficial holders.

5.9 DIRECT VOTING BEFORE THE MEETING

Should direct voting before the meeting be provided for by legislative or other means, and if so what matters should be covered in any regulatory structure?

Although there appears to be general industry acceptance that direct voting can be implemented under the current legislative framework, it has not been broadly adopted by listed companies. A reason for this may be that companies are concerned that direct voting is not expressly authorised by legislation. We would therefore support the introduction of legislation that removes those residual doubts. Our preference would be for the authorisation to be general, allowing companies to implement direct voting in a manner that works for them, with the exception that the cut off point for lodgement of a direct vote should align with the proxy cut off point.

Recommendation: Adopt legislation to expressly enable companies to introduce direct voting.

5.11 ONLINE VOTING DURING THE AGM

Should there be legislative or other recognition of online voting during the course of an AGM and, if so, in what respects should this form of voting be regulated?

Computershare welcomes the introduction of online voting during the AGM and sees no reason why online voting could not be regulated in the same way as in-person voting. Our shareholder surveys

support that this concept would promote retail shareholder engagement with 66% of shareholders surveyed saying that they would always or occasionally participate in an online environment.

Consideration will need to be given to the benefits for institutional shareholders who hold shares under a pooled account structure. These shareholders would still be required to vote in advance or nominate corporate representatives to revoke a proxy at the physical meeting. In the event that designated accounts are mandated in Australia, we could leverage off the advances of the E_GEM recently adopted in Turkey. This would only work where institutional shareholders hold their stock directly on the register. Where this is not the case, an underlying shareholder holding their shares through a nominee would not be able to vote online during the AGM unless significant changes were made to current voting processes. Therefore, the current process of institutional shareholders voting well in advance of the AGM would still prevail.

With the adoption of online voting, Computershare could readily provide a platform that allows shareholders to complete the following activities online during the course of an AGM:

- Register for the meeting
- View the live meeting
- Submit votes
- Ask and submit questions
- Share or post comments to social media sites
- Access vote confirmations

We believe that by retaining the current process of voting at the physical meeting and adding the option to vote online, we could provide shareholders with more choice, leading to greater shareholder engagement.

Recommendation: Allow online voting during the AGM.

5.12 EXCLUSIONS FROM VOTING

Do any issues arise concerning voting exclusions on resolutions that must, or may, be considered at an AGM and, if so, how might those issues best be resolved?

Issues with voting exclusions on resolutions arise largely as a result of pooled accounts because in those circumstances underlying shareholders who are subject to an exclusion hold their investments with other underlying shareholders who are not. Holding shares in designated accounts would allow for voting exclusions to be managed more easily and would give greater certainty to companies that the required exclusions have been properly imposed.

Recommendation: The use of designated accounts will minimise issues with managing vote exclusions.

5.14 INDEPENDENT VERIFICATION OF VOTES CAST ON A POLL

Should one or more verification requirements apply in all instances or only if, say, a threshold number of shareholders require it?

Computershare does not support a recommendation that independent verification requirements should apply to votes cast on a poll. The Corporations Act already provides a legal framework within which companies must operate their meetings including, for listed companies, disclosing poll results (and proxy results when resolutions are determined by show of hands) to the market and additional obligations regarding the accuracy of all disclosures to the market. A range of remedies are available to relevant persons for breaches of these obligations.

We therefore believe that to impose obligations (that would give a third-party access to sensitive shareholder information contained within proxy forms and voting records) is unwarranted and could lead to additional expense for companies as well as delays in the announcement of meeting results.

Recommendation: No additional verification requirements are required for voting by poll regardless of shareholder numbers.

5.15 DISCLOSURE OF VOTING AFTER THE AGM

Should any steps be taken to promote more consistency in the disclosure to the market of voting results?

While companies are required to lodge with the ASX the results of each resolution put to shareholders at a meeting, there is no requirement to communicate these results with shareholders within a particular timeframe or via a specific channel.

In a recent shareholder survey (see **Appendix A**), 75% of respondents indicated that they were interested in receiving voting results following an AGM. Nearly three quarters of respondents said that they would like the results to be communicated to them via a digital channel (email, digital mailbox or SMS).

Recommendation: Companies should allow shareholders to elect to receive a post-meeting communication that outlines the results of each resolution. To ensure cost effectiveness for companies, this communication should only be required to be made available to shareholders in electronic form.

5.17 DUAL LISTED COMPANIES

Are there any matters concerning dual-listing that should be taken into account in the regulation of AGMs?

Careful thought needs to be given to voting issues by dual-listed companies. Companies incorporated outside Australia (and dual listed on ASX) need to conform to their own domestic market laws as well as the practice and processes that are customary in the Australian market. Conversely, foreign markets, where Australian listed companies are dual-listed, may follow their own domestic practices (for example,

through the deployment of depositaries) that are different to the rules and procedures that are customary in Australia. Companies need to take care to ensure that their voting procedures can comply with relevant rules and practices so that companies, shareholders and intermediaries have certainty in the voting process. This may not be an issue for CAMAC but is something that needs to be understood and addressed by dual-listed companies to ensure, for example, that appropriate procedures are in place to make sure that the same holder cannot vote the same parcel of shares in each listed market.

5.18 GLOBALISATION

Are there any problems in the voting or other aspects of AGMs for overseas holders of shareholding interests in Australian regulated companies?

Many markets are considering ways to modernise shareholder communications and the proxy voting system. Because Australia has an advanced market structure and a transparent share ownership system the problems in Australia are not as acute as they are elsewhere, however, improvements could be made. Where overseas holders are direct registered shareholders they should have the ability to vote electronically via their registrar's platform (either by web or IVR depending on the services the company offers). Where overseas shareholders hold securities in a pooled account they have to rely on the nominee to "pass on" their rights. This is an internal matter between the nominee and the shareholder, subject to any further regulation in this area. Rules should be considered that require the nominee to advise the shareholder of the details of the meeting and to vote as instructed, as contemplated by the Geneva Securities Convention. We do not believe that companies should be required to develop or provide special services for beneficial owners given the choices shareholders have to hold their securities in designated accounts if desired.

Please also refer to our comments on question 5.17.

Recommendation: Companies should provide electronic voting facilities for registered shareholders. CAMAC should further consider requiring nominees to pass shareholder communications on to their clients, and to facilitate lodging the voting instructions passed back by beneficial owners.

6. FUTURE OF THE AGM

6.2.2 Options for change

For some or all public companies, should the functions of the AGM be changed in some manner, or the obligation to hold an AGM be abolished?

The physical AGM continues to be a valued forum for those who do choose to attend AGMs. For this reason Computershare is strongly against the abolition of the physical AGM. In its current state, the AGM plays a critical role by giving retail shareholders the opportunity to question the board and management in a public forum. Surveyed shareholders tell us that they value hearing fellow shareholders questioning the board at the AGM. In addition, the value that shareholders place on what they have described in our surveys as physically 'eyeballing directors' and making the board accountable is very real. Our survey revealed that of the shareholders who always or sometimes attend the AGM,

79% said that it enables them to directly assess a board's capacity to govern a company and gives shareholders the ability to ask questions in person.

As per our recommendation to question 5.11, we do support the introduction of online voting at the AGM, however, we caution against taking this to the extreme as they have done in the United States, where some states permit online-only meetings. Our experience in the United States with online-only meetings is that a degree of shareholder scepticism has emerged. For example, shareholders have expressed fears that their questions have been prioritised, rephrased and ignored or responses have been delayed to be answered outside the meeting, and are therefore not on public record. Concerns have also been expressed regarding the transparency of shareholder questions and management's answers, as well as whether or not shareholder questions asked online are visible to everyone at the meeting.

We therefore support the consideration of adopting hybrid meetings – that is, a combination of the physical and online AGM – for all companies on an annual basis as long as it is ultimately the company's choice as to whether they adopt this practice. To ensure the introduction of hybrid AGMs is successful in Australia the technology, systems and service providers need to have robust procedures in place.

Hybrid AGM benefits – for companies

Our experience in the United States indicates that offering virtual participation in AGMs leads to:

- Shareholder participation regardless of physical location – companies have the potential to reach out to more shareholders
- Interacting with more shareholders in real-time – with both online and physical Q&A and response time, companies are better able to gauge shareholder feedback and sentiment
- Improved corporate governance – there is less empty voting resulting in improved corporate governance

Hybrid AGM benefits – for shareholders

There are also benefits for shareholders including:

- The choice of whether to attend in person or to access it virtually
- Real-time access to the board and senior management, regardless of location
- The ability to interact with and hear questions from other shareholders without being in the room
- Provide institutional shareholders and foreign shareholders real-time access without the cost of attendance

Recommendation: Do not abolish the physical AGM, however, do introduce the option of a hybrid AGM at the company's election. There must be clear guidelines as to how hybrid AGMs are to be operated.

In this context, what technological developments might be taken into account in considering the possible functions of the AGM?

Please refer to our comments on 5.11.