



**AIRA**

AUSTRALASIAN  
INVESTOR RELATIONS  
ASSOCIATION

---

AUSTRALASIAN INVESTOR RELATIONS ASSOCIATION

ABN 66095554153

GPO Box 1365, Sydney NSW 2001 |

t +61 2 9872 9100 e [administration@australasianir.com.au](mailto:administration@australasianir.com.au) w [australasianir.com.au](http://australasianir.com.au)

13 December 2022

Director  
Beneficial Ownership and Transparency Unit  
Market Conduct Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [BeneficialOwnership@TREASURY.GOV.AU](mailto:BeneficialOwnership@TREASURY.GOV.AU)

Dear Sir/Madam

**Submission on the Federal Treasury Multinational Tax Integrity: Public  
Beneficial Ownership Register**

**BACKGROUND**

The Australasian Investor Relations Association (AIRA) submits this response to the Department of Treasury's consultation into Multinational Tax Integrity: Public Beneficial Ownership Register.

AIRA is the peak body representing investor relations practitioners in Australia and New Zealand. The Association's 160 corporate members now represent over A\$1.2 trillion of market capitalisation, over 80% of the total market capitalisation of companies listed on ASX. We exist to provide listed entities with a single voice in the public debate on corporate disclosure and to improve the skills and professionalism of members. Our vision and purpose is that investor relations enables and creates sustainable value for all capital market stakeholders by building and strengthening market confidence in listed and unlisted entities.

**KEY POINTS**

- Our comments are related to listed entities only.
- ASIC should be provided more powers around enforcement in relation to non-compliance with the existing beneficial ownership tracing provisions in s.672 of the Corporations Act and also Substantial Shareholder Notices.
- The definition of relevant interest should be extended to include tracing of derivatives, tradeable fixed income securities and short selling.
- In annual reports consideration should be given to listed entities including the top 20 beneficial holders (where the entity has undertaken a beneficial ownership analysis) in addition to the top 20 registered holders which is the current requirement.
- Subject to takeover provisions increase the 20% threshold to 25% for consistency for KYC requirements.
- Onboard trusts from Day One.

## CONSULTATION QUESTIONS & RESPONSES

### Introduction

**Question 1:** Should substantial holding and tracing notices be amended to capture additional beneficial ownership information to identify and disclose the true beneficial owners of listed entities? If so, what additional information should be captured?

**Response:** Whilst this proposal may promote community benefits such as facilitating public scrutiny of commercial arrangements and enhancing the effectiveness of regulatory actions relating to tax evasion and other financial crimes, the protection of individuals' privacy and safety is an important consideration in determining what additional information should be captured. Substantial holding notices are made available on the ASX public announcements platform (and available on the web), and the proposed capture of additional beneficial ownership information for natural persons in that notice may impact on the privacy of individuals.

**Question 2.** Should the tracing notice and substantial holding notice regimes be fully aligned so responses to each notice capture the same information?

**Response:** A publicly accessible tracing notice register is not as widely disseminated as the substantial holding notice. If the regimes are not fully aligned, there may be an ability to capture additional beneficial ownership information in the tracing notice to identify and disclose the true beneficial owners of listed entities.

**Question 3.** As is the case for tracing notices, should listed entities be required to maintain a register of information collected by substantial holding notices?

**Response:** No. There would be added regulatory and compliance costs for the listed entity relating to this proposal. In any case, certain information in relation to the top 20 registered shareholders of a listed entity (ie the shareholder name, number of shares held and percentage of issued shares) is already included in the Annual Report of the listed entity. In the case of where that shareholder is a company, further beneficial ownership details may be obtained from the ASIC company register.

**Question 4.** How could the accessibility and useability of registers maintained by listed entities of information received from tracing notices be improved for users of beneficial ownership information?

**Response:** A standard format for the information available in the register should be considered i.e. information received in the notices could be put into standard fields.

### Definition of beneficial ownership

**Question 5.** Are there any elements missing from the proposed definition of beneficial ownership?

**Response:** The definition of relevant interest should be extended to include equity swaps, short selling and tradeable debt.

**Question 6.** Are there any potential unintended consequences which could result from adopting a 20 per cent threshold for beneficial ownership?

**Response:** Consideration should be given to aligning this with the 25% requirement for KYC obligations subject to the operation of the takeover provisions of the Corporations Act.

#### **Entities subject to beneficial ownership disclosure requirements**

**Question 7.** Should the requirement to maintain a beneficial ownership register be applied to any other entities or legal vehicles (noting beneficial ownership requirements for property not including regulated entities held on trust will be subject to a separate consultation process)?

**Response:** Trusts should be brought into the regime from day one.

#### **Content and availability of beneficial ownership register**

**Question 12.** How should public access of regulated entities' registers be facilitated? Should registers be accessible on request or published on the regulated entities' websites?

**Response:** Same as is currently the case i.e. available on request wherever it is maintained.

#### **Accuracy and currency of beneficial ownership register**

**Question 21.** Are there any potential unintended consequences which could result from implementing the proposed requirements for ensuring beneficial ownership registers are kept up to date? How could these be addressed?

**Response:** May not have change and may therefore lead to unnecessary additional compliance costs.

#### **Enforcement and penalties**

**Question 23.** Is it appropriate to grant ASIC powers in the Corporations Act (equivalent to those it has under sections 72 and 73 of the ASIC Act) for responding to non-compliance with substantial holding notices and tracing notices? Why or why not?

**Response:** Yes, however ASIC should be encouraged to enforce the existing provisions of the substantial shareholder notices as there is significant non-compliance at the moment.

**CLOSING COMMENTS**

We would be happy to discuss the matters raised in this submission with you.

Yours sincerely

A handwritten signature in black ink that reads "Ian Matheson". The signature is written in a cursive style with a horizontal line underneath the name.

Ian Matheson  
Chief Executive Officer