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Director
Beneficial Ownership and Transparency Unit
Market Conduct Division
The Treasury
Langton Crescent
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By email: BeneficialOwnership@TREASURY.GOV.AU

Submission from Orient Capital, (Part of Link Group) in response to Multinational tax integrity: Public Beneficial Ownership Register

Orient Capital Pty Ltd (Orient) welcomes the opportunity and is pleased to provide feedback on the consultation paper, Multinational tax integrity: Public Beneficial Ownership Register.

Orient is a global leader in shareholder analysis and identification, equity market intelligence, proxy solicitation, webcasting, investor communication and shareholder management technology. We are a wholly owned, but an independent subsidiary of the Link Group (Link), a global share registry and technology services provider. We service the complete breadth of investment products across listed, unlisted, superannuation, LICs/LITs and multi-distributed ETF's (quoted investment funds), Link listed on the Australian Stock Exchange in October 2015.

Orient has been providing comprehensive investor relations support around analysis, CRM and investor targeting to listed companies and their advisors for over 25 years. Globally we work with over 1,600 issuers, delivering approximately 1,000 shareholder analyses every month.

The Orient team has dedicated client relationship experts in Sydney, Hong Kong and London who look after the needs of our clients on a daily basis.

Orient undertakes [shareholder analytics](#) for over 71% (by market capitalisation) of Issuers contained within the S&P/ASX 300, within this calendar year Orient has provided shareholder analytics for over 500 Issuers. . Globally per month Orient will issue on average 30,000 tracing notices, with an average of over 9,000 tracing notices issued per month under Sections 672 of the *Corporations Act 2001* (Corporations Act).

Given Orient's position in the market we have an in-depth understanding of analysis and view the proposal set out by the Government to strengthen the existing enforcement regime applying to listed entities in respect of the substantial holding notice and tracing notice regimes as being positive and beneficial to increase transparency across listed issuer share registers. Currently in the event of non-compliance with subsection 672A(1)(a)/ 672A(1)(b) Corporations Act and no enforcement by the Australian Securities and Investment Commission (ASIC) listed Issuers generally will not pursue compliance based on the costly nature of legal actions. To improve and support better reporting and greater transparency we recommend that the powers of ASIC be expanded and actively enforced to allow non-compliance orders to be issued directly by ASIC as a regulator rather than the Issuer.

Additionally, based on our operational insights as recipient of returned notices we see this as an opportune time to strongly urge enforcement by ASIC for correct completion of disclosure notices of

substantial holders under Sections 671B Corporations Act to be completed in accordance with the prescribed form.

Orient is generally supportive of stronger regulatory enforcement provisions and penalties to enhance greater compliance with beneficial ownership disclosure regimes.

The grant of powers to ASIC in the Corporations Act (equivalent to those it has under sections 72 and 73 of the *ASIC Act 2001*) for responding to non-compliance with substantial holding notices and tracing notice is generally appropriate, however considerations should be made for those 'orders to restraining disposal by a specified person' does not directly conflict with Issuers constitutions in relation to disposal of shares/units in accordance with ownership limits of a deemed foreign person/ holding should in the event the non-compliance party be identified within an Issuers foreign ownership regulations process.

Equally, attention and the grant of possible relief or exemption may be necessary for any parcel of shares subject to a capital management transaction, such as a takeover as an example. A parcel of shares successfully tendered as a takeover acceptance; it would not seem feasible for those shares to be deemed restrained in terms of disposal.

In our view transparency can be achieved not only by stronger regulatory enforcement but by explicitly expanding the scope of tracing notices. At present tracing notices can only be issued to issuers with voting shares and/or units, under Pt 6C.2 of the Corporations Act which ultimately restricts visibility as it eliminates other financial products and instruments such as derivatives, notes, short-selling and non-voting listed shares i.e., Exchange -Traded Fund (ETF's). This limitation reduces the visibility of the true holders of shares and creates opportunities for investors to "hide" their true holdings in a company. It is our opinion that expanding the scope will deliver greater insight leading to greater transparency.

Summary

In closing, we consider the current legislation with the proposed regulatory enforcement provisions and penalties outlined to enhance compliance coupled with the expanded scope of tracing notices (e.g., inclusion of security classes i.e, non-voting shares, derivatives etc.) as itemised in our response paper will provide improved disclosures, delivering the outcome of greater transparency within the Australian beneficial ownership disclosures framework.

Link services the complete breadth of investments products including unlisted products and we are happy to discuss the unlisted products and the mechanics of beneficial ownership registers further should Treasury wish to engage.

In relation to our submission, we would welcome the opportunity to participate in further discussions if required and invite Treasury to contact us to discuss our response or other in more detail.

Yours Sincerely,



Lysa McKenna
Managing Director, Corporate Markets ANZ
Link Group