

## Nominee Shareholders Enfranchised – At Last!

It was reported in the July edition of Private Investor that the Lords had passed a simple Amendment to the Company Law Reform Bill that would have ensured the enfranchisement of shareholders in nominee accounts. In other words, those members who hold shares in PEP and ISA accounts, or in a general brokers nominee account, would receive annual reports and get the right to vote for the first time. This would be a personal “right” and not just depend on the goodwill of the company.

This Amendment was supported by Lord Hodgson for the Conservatives, the Liberal Democrats and a number of cross-benchers. But no sooner had it been passed than numerous objections were raised by ICSA (who represent company secretaries and registrars) and the Law Society – both of them claiming that the Amendment was unworkable and impractical. At this point there was major concern that the Government would remove the Lord’s Amendment when the Bill entered the Commons, as they do with so many proposals from the Lords. But after representations from UKSA and other people, the Government finally conceded on the principle, and therefore introduced their own Amendment which is more complex but which has the same effect – and our compliments to Minister Margaret Hodge for obtaining a compromise that everyone could support

What will this mean in practice? Firstly it will mean that all listed UK companies (i.e. those on the main market, but not AIM or Ofex shares), will be required to provide information to shareholders in nominee accounts who “opt-in” to receive such information. Such shareholders will be able to choose between electronic communication and paper copies, at least initially. Such information will include interim and annual reports, and any notices of “corporate actions” which may require votes. It is expected that the existing company registrars will maintain lists of those people who are entitled to receive such information, which they will obtain from the nominee account operators on a regular basis.

Secondly, any shareholders in nominee accounts will have the right to vote but this will continue to be via the nominee operator – other provisions of the new Bill enable the nominee to “split” their vote depending on the number of “votes” given to them by the different beneficial shareholders they are responsible for.

Note that these facilities are mandated on “listed companies” but it will be voluntary for nominee operators (ie. stockbrokers) whether they offer it to their clients, for all their account types – for example there are some account types, such as those managed on a “discretionary” basis by the broker, where it would be unlikely to be relevant. But other brokers may simply not bother to offer these facilities to their customers. So it will be extremely important for investors to examine what facilities are offered by different brokers and select the brokers who are committed to enfranchising their clients. Brokers such as The Share Centre who actively supported the campaign to obtain these rights for shareholders are of course expected to implement comprehensive support of these facilities.

What don’t we have yet? Apart from the need to educate investors to select the brokers who believe in enfranchising their clients, there are two particular omissions:

- The lack of support for unlisted stocks such as AIM companies. This may not matter for PEP and ISA accounts of course as such shares cannot be held in those accounts, but it is hoped that AIM companies, particularly the larger ones, may voluntarily support such enfranchisement. And the Secretary of State has the option to widen the legislation to cover them at a later date.

- There is no provision to ensure that shareholder “perks” are received. That will still depend on the goodwill of companies.

It seems unlikely that further changes to the Bill will be made in this area before it becomes law, so after many years of campaigning on this issue, we finally have obtained this major step forward in shareholder rights for smaller investors. Although Gavin Oldham of The Share Centre claims to have first raised the issue 19 years ago, the recent vigorous steps by UKSA and your directors in taking this to a higher political level have finally borne fruit. This is a good example of how UKSA is having a larger impact of late on the things that really matter in the investment environment. This arises from our more forceful approach and our increased member numbers which both supported a vigorous letter writing campaign.

Some people may consider that shareholder enfranchisement is a minor issue, but it is not. It is about the right of people who own shares in companies to have a say in what those companies do with your money. Also it enables you to vote on such matters as additional share issues, share “buy-backs”, directors’ remuneration, and major corporate restructurings. Shareholder democracy and the accountability of directors to their shareholders were being actively undermined by the increased use of nominee accounts, and the encouragement of “passivity” in private shareholders.

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