

Nominee Service versus Certificates (from Update 2002/3)

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Over the past 15 years much has been said and written about holding shares in nominee form as opposed to paper certificates. Throughout this period, and in spite of many attempts to correct the injustice, company law has continued to deny nominee shareholders full enfranchisement for the rights of ownership: company documentation, voting and shareholders' perks. It is only the efforts of nominee operators that enable access to the various companies in which most have chosen to invest of their own accord.

Yet, in spite of these handicaps, share ownership through nominees has grown constantly over the years, now rivalling 'name-on-register' share ownership. Why is this?

Very simply, it is because in a nominee relationship the investor is the customer, whereas with the register, the company is the registrar's client. It is therefore in the nominee operator's interest to build and nurture a well-rounded service, and to develop a sense of awareness with investment opportunities.

As a result, all PEPs and ISAs are based on nominee ownership. Many recent issues, starting with the Halifax issue, led into nominee shareholding. And almost all online share services operate on nominee ownership. It is because of the ability to offer a combination of dealing, share portfolio administration and up-to-date accurate information that nominees are used for these purposes – in spite of the

handicap of inadequate company law treatment.

In comparison, the share register can cater for a single-company approach only where the emphasis is normally on company cost reduction: that's why there are so many so-called 'register clearance' low-cost share (sale) services linked to registrars. Most companies see their share register as a burden to be reduced, rather than an investor relationship to be nurtured.

There is also the problem of fraud among register-based holdings. Because the registrar has no signature on file for the share buyer, unscrupulous fraudsters can divert shareholdings away from the real owners (who may be recently deceased), and then pocket the sale proceeds. This lack of a controlled environment may explain why the Inland Revenue has chosen to use nominee operators to manage PEPs, ISAs, pensions, and employee share schemes.

So why does the government not do what the Americans did years ago and give nominee shareholders proper ownership rights in law? The simple answer, again, is that every time this issue is raised the registrar operators lobby hard together to deny this enfranchisement.

They know that, without the 'monopoly privilege' of being able to extend ownership rights exclusively to their account-holders, the anachronistic register structure will be outpaced even more quickly by nominee ownership, where they are exposed to much more competition.

So they encourage their larger corporate clients to complain to the government about the cost burden of obliging them to communicate with nominee shareholders, and further confuse the issue by enlisting support from investment managers who would rather that their discretionary (nominee) clients did not receive too much information about the companies they (the manager) had chosen for their client's portfolio.

Meanwhile politicians find this issue complicated enough anyway, and when they see it is also contentious their immediate reaction is 'well, how important is it in terms of the world at large, and parliamentary time in particular'. They reckon that because the postbag on this issue is light in comparison to most others, there is really no need to dig any deeper – so the issue is put on the shelf again.

Yet if the current rate of selling share certificates and buying into nominee ownership is maintained, the number of nominee holdings will soon outpace name-on-register holdings. This is because nominee ownership is the most effective and efficient way of building share ownership, and offers choice and competitive services for the investors.

Why should all these new shareowners be denied such self-evident rights of ownership? Some years ago we sponsored a study into the costs and mechanics of nominee shareholder enfranchisement. It was based on an 'opt-in' facility for nominee shareholders, and an 'opt-out' facility for name-on-register shareholders.

We discovered that the savings in communication costs for the latter more than compensated for the additional costs for the former. Meanwhile it was confirmed that simple solutions could easily be put in place to handle the mechanics. UKSA used to be quite strongly opposed to nominee share ownership, primarily due to the absence of shareholder enfranchisement. No doubt since then many members have experienced the benefits of online portfolio valuations thanks to nominee-based internet services, and appreciate rather less the administrative hassles of having to cope with share certificates at home.

Most retail stockbrokers offer services based on nominee ownership, and it is firmly in their interest to overcome the

enfranchisement problem. It is also a fact that many would abolish their basic administrative fees if they were to receive from companies the equivalent fee per shareholding that companies pay their registrar: in fact, this would only be fair, since at present nominee shareholders share in the cost of supporting those register based holdings, through the general charge on the company's profits.

There are many people who long for this issue to be resolved, and the answer lies squarely in the gift of the government. We feel confident that once the issues are explained and understood, this current government can rise to the challenge and see past the vested interests.

We remind readers that some stockbrokers offer their clients the third option of Crest Personal Membership which ties the client to the stockbroker but provides the client with full rights as a shareholder.