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8 September 2023

By email to: digitisationtaskforce@hmtreasury.gov.uk

Sir Douglas Flint
Chair
Digitisation Task Force
HM Treasury

Dear Sir Douglas

Digitisation Taskforce – Interim Report July 2023
Joint response from UKSA and ShareSoc

1. This is a joint response from UKSA (United Kingdom Shareholders' Association) and ShareSoc (UK Individual Shareholders Society) to your interim report. As you would expect from the nature of our membership outlined below, the subject matter is of great importance to them.

2. We are grateful that this review is being conducted in a serious and deliberative way. These are important issues, and the review offers the opportunity to eliminate many of the bad practices amongst nominee services providers that have developed since CREST was first launched. However, we consider that the opportunity has not yet been grasped by the proposals which the Interim Report puts forward as its preferred alternatives.

3. As a preliminary point, you and your team may already have taken into consideration the position paper on the UKSA website[1] "Paper on Dematerialisation." If not, we strongly recommend reading it.

[1] Available at https://www.uksa.org.uk/news/2022/12/30/uksa-publishes-its-position-dematerialisation

4. As you will see from the UKSA paper, UKSA accepts that any solution needs to build on the existing technology of CREST rather than seeking to replace it, and considers that the goals can be achieved within CREST. Furthermore, company registrars currently maintain electronic records of shares which are held in certificated form, and there may also be a solution via the potential continuation of a form of digital holding outside CREST. ShareSoc also agrees with this.

This letter is structured as follows:

A. Summary of our key points

5. Company law has developed over 200 years and gives shareholders many fundamental rights. They are needed both for the good of the country (to ensure that capital markets function properly) and for the good of shareholders (to ensure that minority holders are not oppressed and expropriated by majority shareholders.)

6. As set out in the Terms of Reference, these rights should (we would say *"must")* not be degraded.

7. We consider that the current proposals will degrade those rights, because the current proposals replicate the bad practice that has already arisen in the nominee services market, where firms are permitted to offer services that leave Ultimate Beneficial Owners ("UBOs") unable to exercise their shareholder rights, or unable to do so without extortionate charges. Indeed, the current situation with nominee companies is haphazard and generally unsatisfactory.

8. We consider that forced dematerialisation of the remaining certificated shareholdings is not being proposed to meet any real needs of certificated shareholders, since by and large they are happy with their current position. (Otherwise, they would already have dematerialised their shareholdings.) Instead, the reason for the proposal seems to be saving costs for issuers and intermediaries.

9. Accordingly, such forced dematerialisation should not impose any costs on certificated shareholders who involuntarily must become UBOs. Justice

requires the provision of a free "*bare bones*" ownership arrangement for UBOs. Since issuers and intermediaries will be saving costs, part of those savings could finance the provision of the "bare bones" service

B. About UKSA and ShareSoc

10. UKSA and ShareSoc represent the views of individual investors. Between us we have around 23,000 members. In addition to our own members, 12 to 13 million people own shares[2] or have investment accounts with platforms in the UK.

11. The Office for National Statistics estimates that at the end of 2018 UK-resident individuals held 13.5% of the UK stock market, up by 1.2% from 2016 and moving away from the historical lows of 10.2% in 2008. In 2020, the Financial Times estimated that 15% of the UK stock market is held by individual shareholders. In addition to this there are many more who have money invested in shares via funds, pensions and savings products such as employee share ownership schemes. See the statistics on the ShareSoc website.[3]

12. UKSA and ShareSoc work together to build relations with regulators, politicians and the media to ensure that the voices of individual shareholders and their interests in the long term public good are reflected in the development of law, regulation, and other forms of public policy.

UKSA (United Kingdom Shareholders' Association)

13. UKSA was originally formed to provide individual shareholders with a voice, influence and an opportunity to meet like-minded fellow investors. It is structured as a non-profit making company with annual subscriptions. An elected Chairman and Board of Directors (all volunteers and individuals with a wide range of backgrounds and experience) monitor a regional organisation.

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[2] Surveys by BIS in 2016 identified that between 3-4% of retail investors hold shares in a personal CREST account. The same report estimated that there are approximately 20,000 CREST personal members nationally, out of an estimated 12 million -13 million retail shareholders in the UK. The Law Commission provided updated statistics in their November 2020 intermediated securities scoping paper, noting that the number of individuals holding securities directly through CREST has decreased from approximately 50,000 members in 2003 to 4,200 members in 2020.

Meanwhile, the popularity of retail platforms continues to grow, as detailed in UK Secondary Capital Raising Review, Annex H, which details 2.5 million accounts held in Hargreaves Lansdown, Interactive Investor and AJ Bell. In addition, Freetrade have over 1 million accounts, so we estimate there are over 5 million platform accounts. Obviously, there is some overlap between the owners of accounts, but we have seen no data on the degree of overlap.

[3] Link https://www.sharesoc.org/investor-academy/advanced-topics/uk-stock-market-statistics/

Each region benefits from oversight by an elected regional Chairman and Committee.

14. There are many agents and intermediaries in financial markets. Unlike them, UKSA represents solely those people who are investing their own money. See www.uksa.org.uk

ShareSoc (UK Individual Shareholders Society)

15. ShareSoc is a not-for-profit company. It is dedicated to the support of individual investors (private shareholders as opposed to institutional investors). It aims to make and keep investors better informed to improve their investment skills and protect the value of their investments. It engages with companies, the Government or other institutions if we think individual shareholders are not being treated fairly.

16. ShareSoc actively campaigns to seek redress for private shareholders in cases where they have been the victims of unfair or unscrupulous treatment by companies and / or the financial services industry. See www.sharesoc.org

C. Why shareholder rights are of fundamental importance

17. Numerous shareholder rights are embodied in company law which has developed over the last 200 years in response to historic abuses and deficiencies. They exist for two broad reasons:

    17.1. For the good of society so that the country has a well-functioning capital market where shareholders can hold managements to account.

    17.2. So that minority shareholders can't be oppressed by larger shareholders. This is the reason why some company resolutions have to be special resolutions, and why several types of corporate action need a 75% vote to pass.

18. As well as voting and information rights, these rights include important rights such as those to requisition general meetings and to requisition resolutions at meetings called by issuers.

19. These rights are essential to a well-functioning share owning democracy which underlies the nation's prosperity. The UK can be contrasted with many foreign countries where the rule of law does not operate well, and where insiders regularly exploit and defraud outside shareholders.

20. Owners of certificated shares are currently able to exercise all the rights that company law gives them. If dematerialisation is to be imposed upon them, it is essential that changing from being a certificated shareholder to being a UBO holding shares via an intermediary does not lead to a deprivation of any right given by company law.

21. Unless there are changes to the regulatory framework surrounding intermediaries and/or to the Companies Act 2006, this will not be achieved,

since the current situation with nominee companies is haphazard and generally unsatisfactory.

22. In this regard, we draw attention to the Terms of Reference of the enquiry, particularly numbers 2, 3 and 4.

    2) Rights of intermediated investors

    Ultimate investors who hold shares with intermediaries should be able to effectively and efficiently exercise the rights associated with direct share ownership including voting, receiving information and other corporate actions. The ability to exercise such rights as a default should be universal, irrespective of the intermediary that an investor uses.

    3) Rights of existing certificated shareholders

    The removal of paper certificates should not result in the degradation of the rights of current holders of paper certificates to, for example, vote, receive information and participate in corporate actions.

    4) Issuer rights must be improved.

    Any model for digitisation should increase shareholder transparency enabling issuers, investors, and intermediaries to more effectively and efficiently communicate with a company's entire shareholder base including investors as beneficial owners who hold shares with intermediaries.

23. Number (3) above is consistent with our view that the rights held by certificated shareholders should not be degraded. Your current proposals do degrade those rights, because they convert them from something inalienable and exercisable by all certificated shareholders into something exercisable at the commercial discretion of nominee services providers, with the basic approach being *"Pay more if you want to exercise your shareholder rights."*

24. Moreover, existing UBOs of dematerialised shares held by many nominee companies are receiving services that fall far below the rights that Number (3) says should not be degraded and that Number (2) says should be universal. This current review is the opportunity to fix that, by ensuring that in future all UBOs receive a service that enables them to exercise the rights given to them by company law without suffering extortionate charges for the *"privilege*", when these are rights, not privileges.

25. Similarly, your question 9 (below) implies that you do not regard it as essential for investors (as opposed to issuers or intermediaries) to more effectively and efficiently communicate with a company's entire shareholder base including UBOs. Our view is that it is essential, especially since UBOs do not have the facility of institutional investors in the Investor Forum for collective engagement.

26. In this context it should be recognised that an increasing proportion of UBO's are investors in ISA's and owners of SIPPs with little current opportunity to exercise the rights a direct individual shareholder has. The outcome of the

Digitisation Review represents an opportunity to extend/restore the rights of such UBO's and should not be missed in the interest of better markets.

D. Certificated shareholders are not the ones asking for dematerialisation

27. Since the CREST system went live, individuals (and others) owning certificated shares have had the option of dematerialising their shareholdings by transfer to a nominee services provider.

28. Many of our members have chosen to do so, despite the annual costs charged by services providers, and the problems of exercising their shareholder rights, because they value the greater ease and speed of buying and selling compared with using paper share certificates.

29. However, many have not. They value the absence of annual cost, and the automatic ability to exercise all of their shareholder rights. A particular concern is the situation when the nominee becomes insolvent, e.g. Beaufort, SVS, etc. ShareSoc and UKSA have been campaigning about inadequacies in the law in this area and Lord Lee has raised questions in Parliament about this. However the proposals make no reference to this problem, which unless addressed explicitly will result in further consumer harm.

30. It is quite clear from all of the material published about dematerialisation that it is driven by a desire to reduce costs for issuers, registrars, stockbroking firms etc. Everyone other than the certificated shareholders themselves, who are happy with the current position, since if they were not, they would already have dematerialised their holdings.

31. We can accept that dematerialisation should happen *"in the national interest."* However, it needs to be done in a way that minimises the adverse impact upon existing certificated shareholders and, as suggested in the previous work by the Law Commission and the Austin Review, enhances the current rights of intermediated shareholders. The Taskforce's Terms of Reference broadly recognise this. However, as stated earlier in paragraph 23 we consider that your Interim Report fails to adequately take these points into account.

32. Government needs to acknowledge that dematerialisation will be forced on certificated shareholders even though, as mentioned above, they don't want it, to save costs for other market participants. Accordingly, justice requires providing a *"bare bones"* service that allows UBOs to continue to exercise the ownership rights that they have without any cost to them. These include (amongst many others granted by the Companies Act 2006):

    32.1. The rights to receive company communications, either electronically or on paper if they wish.

    32.2. The right to receive dividends and to vote, attend the AGM etc.

    32.3. For the avoidance of doubt, this does not mean the right to buy and sell free of charge. Certificated shareholders already pay to buy and sell (often at a higher price than do UBOs) and we accept that UBOs

holding their shares in a *"bare bones"* service would of course have to pay a stockbroker if they wished to buy and sell.

33. Since issuers and intermediaries will be saving costs as a result of forced dematerialisation, some of these savings should be used to finance the provision of the *"bare bones"* service. Since this *"bare bones"* service would be a natural monopoly, it could for example be managed by Euroclear with the monopoly aspects being supervised by the regulators.

E. Other situations where UBO rights matter

34. The Terms of Reference and the Interim Report consider only UK listed companies. That is understandable, since they are the subject matter of company law.

35. We mention in passing that there are other situations where communication between issuers and UBOs, and the exercise of UBOs' rights matters. For example, individuals' investments in funds (OIECs and unit trusts) are often held by the nominee company of their stockbroker or investment platform. This gives rise to the same difficulties in exercising fundholder's rights that you and we discuss in the context of UBOs of listed company shares.

36. It would be helpful if the final arrangements that are devised for limited company shares are also applied to other situations where nominee companies are holding investments for UBOs.

F. Answers to your specific questions

Question 1

Question 1 – what would be an appropriate timeline to require all share certificates to be dematerialised to ensure that the communication arrangements necessary to allow previously certificated shareholders to have access to their rights are in place?

37. This should be decided later when the scale of the problem is known.

38. Your document does not give an estimate of the number of people with paper certificates nor any distribution information for the value of shares they hold. It may be that you have no further information, but it would be worthwhile publishing all that you know about the pattern of certificated holdings.

39. We understand from page 21 of your Interim Report that Abrdn plc currently has about 96,000 "lost" shareholders (including lost UBOs) and this is only one of a hundred companies in the FTSE-100. Due to its history, Abrdn plc is not representative of FTSE-100 issuers generally. Nevertheless, the figures in your Interim Report point suggest that a large number of shareholders would be involved when one considers the whole of the FTSE-100. Furthermore, this estimate excludes listed companies outside the FTSE-100.

40. To ensure that any action taken is based upon reliable information, all companies should be required to publish the number of shareholders holding shares in certificated form, the number of these that are *"lost"* shareholders, the aggregate number of shares so held (with distributional information), and the market value using, for example, the share price on the last year end date.

41. There may be scope for using artificial intelligence enhanced search to identify lost shareholders cost effectively. A small fee could be paid by the issuer (and ultimately charged to the untraced funds) to third parties which perform this service.

42. There is a risk of a repeat of the scandal seen with PPI claims if search firms start marketing their services to individuals offering to track down lost certificated shares they may own.

Question 2

Question 2 – What approach should be taken to the disposition of 'residual paper shares', and should a time limit be imposed for identifying untraced UBOs?

43. You discuss three alternative approaches on page 13 of your report.

44. We consider that options (1) and (2) on page 13 are undesirable. For each issuer, keeping such records and dealing with UBO enquiries will be inefficient, and not part of the core competence of the issuer.

45. Instead, we prefer option (3) - transfer of the holdings to an authorised reclaim fund under the UK's Dormant Assets Scheme. Under this approach, issuers would record the UKDAS as the owner of the shares concerned, and pay dividends to the UKDAS, which would keep records of the dividends received on each separate holding transferred to it, so that the UBO could be given the money if they come forward within the time limit and can prove their ownership.

46. We think 20 years is a reasonable time limit, given that we are discussing expropriating individuals or their heirs of property belonging to them.

Question 3

Question 3 – with regard to 'residual' certificated shareholdings attributable to uncontactable shareholders, do you support each issuer having the option to manage these residual interests themselves within the authority contained within their articles of association as well as having the option to transfer the proceeds of sale to the UK's Dormant Assets Scheme?

47. No. We do not support each issuer having the option to manage these residual interests themselves.

48. Sadly, financial incentives drive behaviour. We consider that issuers have no incentive to do this well.

Question 4

Question 4 – is the ability to have digitised shareholdings held on a register outside the CSD important to issuers or UBOs?

49. Given the composition of our membership, we offer no view on what is important to issuers.

50. What is important to UBOs who currently hold shares in certificated form is that they continue to enjoy all of the rights they currently have as shareholders. Any dematerialisation proposal needs to preserve all of those rights if it is to have their consent, rather than being something that is simply imposed on them by force majeure to meet the commercial objectives of other parties such as issuers, registrars, or companies offering nominee services. That is what matters to UBOs, not whether digitised shareholdings are held on a register inside or outside the CSD.

51. We think that Option 1 on your page 14 is potentially a better option than Option 3 on page 15.

52. Although your description of Option 1 mentions a second register of shareholdings, we understand Option 1 to entail one shareholder register, but with two components.

53. Option 1 will be the most familiar solution for the millions of existing certificated shareholders. Much of the existing friction between the current paper system, investors and CREST will be eliminated when the paper certificates are digitised, e.g.:

    53.1. paper cheques

    53.2. paper annual reports, notices of GMs, proxy notices, dividend confirmations

    53.3. postage of the above

    53.4. execution of sales of shares

    53.5. transfer of shares from the digital system to platforms.

54. Option 1 also allows the continuation of the existing shareholder rights that will be removed under Option 3.

55. In addition, Option 1 avoids the need that would arise with Option 3 for certificated shareholders to identify and go through Know Your Customer, Anti-Money Laundering and other processes with a nominee platform before the nominee platform could hold and administer investors' dematerialised interests.

56. Furthermore, as the registrar already has the bank details and other history for most certificated shareholders, the process of identifying *"lost"* shareholders will be easier than for a platform / nominee who will not have such information.

57. We would like to see a proper cost comparison of Option 1 and Option 3. We believe Option 1 will lead to more cost savings than Option 3 which we see as giving rise to much higher costs for investors.

58. Option 3 is a much more significant change than Option 1 and therefore has higher risks which should be avoided unless the cost benefit is very clear. The main risks of Option 3 compared to Option 1 are:

    58.1. Strongly negative public and press reaction from removal of paper certificates and replacement by a less readily understood system, combined with removal of existing shareholder rights.

    58.2. Potentially higher costs of Option 3, particularly taking into account the KYC and AML checks that would be needed, and the charges nominees will make to UBOs.

    58.3. There is no enforced cost if one digitises the existing register as in Option 1, as it can be left to issuers to determine if / how to manage unresponsive holders. (Many companies already have tracing and forfeiture arrangements in place.) Conversely Option 3 implies higher costs of tracing lost shareholders.

    58.4. The nature of the change Option 3 entails is likely to generate higher numbers of untraced shareholders, which might lead to many years of negative press stories as old share certificates turn up.

    58.5. Removal of any competition to platforms and concentration of all holdings into nominee holdings within CREST puts investors at risk of future price increases. This is particularly the case for smaller customers, who at some stage in the business cycle may be deemed by the platforms to be uneconomic to serve.

    58.6. In addition, the difficulties of moving from one platform to another are well known and the subject of various FCA studies. Option 3 potentially increases this risk.

59. We would also like to see Option 2 on page 14 of your paper re-examined. As you will see from the UKSA Dematerialisation Position Paper, UKSA regards this as desirable for most UBOs and considers that nominee services providers have deliberately made the service prohibitively expensive for their own commercial reasons, despite Euroclear's charges for the underlying service being quite reasonable. ShareSoc agrees.

60. We consider that a key reason for current high charges for CREST sponsored membership (which is the route for Option 2 for individual shareholders) is the lack of economies of scale. From the perspective of intermediaries, nominee arrangements are very convenient. Therefore, they have not publicised the availability or advantages of personal CREST accounts.

61. This has led to a diminishing number of clients requesting them while intermediaries have not developed systems to operate such accounts

efficiently. The intermediaries can then claim that they incur significant extra costs in operating such accounts and in turn levy the high charges which have in recent years driven most individuals away from personal CREST accounts.

62. If intermediaries were required to make personal CREST accounts the default option, then they would have to develop efficient systems and processes to handle them, and costs would undoubtedly fall.

63. Option 2 is viable in Sweden, where individual investors are offered both segregated and pooled accounts; and we are told that millions of Swedish individual investors choose to have "custody accounts" (which are similar to segregated nominee accounts) and whose names appear on the shareholder register)[4] and are similar to although legally different to segregated accounts in the UK.

64. For this option to satisfy our members' requirements, UK legislation would need to confer the same rights to UBOs represented by those accounts as those granted to members by CA2006. Such segregated accounts should also be available for SIPP and ISA client accounts. Intermediaries should be required to offer such accounts and to clearly explain their benefits.

65. It would assist thinking about the issues to know the numbers of investors who have paper certificates and those who have nominee accounts where they own shares as UBOs. How many have both nominee arrangements and paper share certificates? How many have paper certificates only?

Question 5

Question 5 – do you agree with the taskforce recommendation that the optimal architecture is for all digitised shareholdings to be recorded in the CSD and managed and administered through nominees?

66. As you will have seen above, we consider that your Option 1 on page 14 has many merits. If it were adopted, then all digitised shareholdings would not be recorded in the CSD.

67. We are particularly sceptical of all shareholdings being managed and administered through nominees because most nominee firms fail to provide the services to UBOs that shareholders receive automatically by virtue of holding certificated shares.

68. For brevity, we do not repeat the many problems with existing nominee practices explained in paragraph 62 of UKSA's Position Paper on Dematerialisation referenced above in paragraph 3 of this letter. However we

[4] See https://www.euroclear.com/services/en/provider-homepage/euroclear-sweden.html "One of the Swedish market´s key characteristics is transparency in holdings. We currently have some 3,2 million investor accounts registered in our digital securities system. We also have our affiliated companies´ public shareholder registers available on request."

And https://www.euroclear.com/services/en/private-investor-services/private-investor-services-euroclear-sweden.html

are very concerned about the risks that nominees present to UBOs with the scope for stock lending not authorised by the UBO, and indeed the risk of loss of the shareholdings in the event of negligent or criminal behaviour by staff at the nominees.

69. Also, we are dubious that the main platforms (e.g. Hargreaves Lansdown, Interactive Investor, AJ Bell) would want to take on large numbers of new customers who only hold shares in one or two companies, or what charges they would levy. Who knows what they might charge in the future? They may offer low charges initially, but without competition, they would have free rein to increase charges in the future. This is a further argument in favour of a direct registration option, e.g. Option 1 or Option 2 as opposed to your Option 3 on page 15.

70. At present, holders of certificated shares pay nothing on an annual basis for owning their shares, even if they suffer slightly higher dealing costs when buying or selling certificated shares compared with UBOs dealing in shares held via nominees.

71. Currently the issuer bears the costs of the paper certificated system. This has been the principle for over 200 years, and it should not be abandoned without more careful thought. That is why we propose a "*bare bones*" free service in paragraph 32.

72. As noted above it is unclear how many people would be affected by dematerialisation. This makes the data gathering we mention above vital.

73. The suggestion that competitive pressures be allowed to facilitate shareholder rights undervalues the fundamental importance of those rights. We have seen with existing nominee practice how large numbers of UBOs find themselves either with no ability to exercise their rights, or being charged more for the *"privilege."*

74. If, however, the Companies Act were to be changed to require the provision of the existing shareholder rights to UBOs, the recording of all digitised shareholders on the CSD might be more acceptable. We would envisage UBOs being able to opt out of some electronic communications if they wished, but the choice must be with the UBO and not with the nominee, and should not entail differential pricing. However, as noted in our answer to question 4, we believe that Options 1 and 2 are worthy of further investigation.

Question 6

Question 6 – do you agree that the dematerialisation of current certificated holdings would be optimally pursued in a two-stage process, first to dematerialise to a single nominee (which could be sponsored by the issuer, an intermediary acting on its behalf or a collective industry nominee) and second to allow individual participants to move their beneficial interests to a nominee of their choice electronically?

75. No. We do not agree that current certificated holders should be required to move their shares to a nominee, whether of their own choice or otherwise, for the reasons stated above. Please see our response to Question 5.

Question 7

Question 7 – do you agree that facilitation of shareholder rights should be left to market forces, with full transparency as to whether access to such rights is available and where it is, clear communication around ease of access and charges allowing shareholders to choose between full service or lighter touch models?

76. No, we do not agree. There are fundamental public policy reasons for the existence of shareholder rights in a market-based economy. They are too important for shareholders to be able to forfeit them in exchange for a cheaper nominee service.

77. These rights are an integral part of being a shareholder and have existed for over 200 years. Your proposal of forced dematerialisation takes these rights away from the owners of the shares and gives them to the nominee companies.

78. It then becomes a commercial negotiation between the nominee company and the UBO which of those rights the nominee company will permit the UBO to exercise, and how much the nominee company will charge for that. Many of the rights conferred by CA2006 are such that nominees are not even able to facilitate UBOs exercising them under current legislation. See Eckerle & Ors v Wickeder Westfalenstahl GmbH.

79. Frankly we see that as a mechanism for increasing the revenues of nominee company providers at the expense of people who presently hold certificated shares.

80. Both ShareSoc and UKSA have already been campaigning about the unsatisfactory way disintermediation works for UBOs already in nominee accounts (and for issuers in our opinion) and see your current initiative as being the platform for improving the access to shareholders' rights of existing UBOs.

81. If forced dematerialisation is required in the national interest, a clearer case for doing so needs to be made, or a dematerialisation model needs to be put forward that does not deprive shareholders by imposing additional costs upon them, as we suggest in paragraph 32.

82. Irrespective of the above, for market forces to work, UBO's have to be confident they can exercise market pressure. In a likely initial scenario of few platforms/ nominees offering access to exercising shareholder rights, requires that UBO's can switch holdings whether direct personal, in ISAs and or in SIPPs between platforms with little delay, out of market time and cost. That is not the present situation and therefore the wish of greater UBO exercise of rights would not occur. The FCA would need to enforce a regime like that which exists for switching current accounts between banks and costs would be involved for platforms and nominees. This would be necessary for competition and market

forces to operate but we do not believe that the rights conferred by CA2006 should be a luxury, only to be enjoyed at the discretion of intermediaries. Rather they are a basic necessity for a successful share owning democracy.

Question 8

Question 8 – What should the service level agreement be between issuers and the intermediation chain, with regard to the provision of UBO information? With regard to turnaround time and the frequency of request, what would constitute 'fair usage' of that process – essentially a 'baseline' obligation? Should aggregation be permitted such that individual UBOs below a minimum percentage ownership need only be communicated in aggregate; what should that percentage be?

83. We have no views on the service level agreement between issuers and the intermediation chain.

84. We read your question *"Should aggregation be permitted such that individual UBOs below a minimum percentage ownership need only be communicated in aggregate; what should that percentage be?"* to refer to the provision of information about UBOs by intermediaries back to issuers so that issuers can discharge their legal obligations for KYC and AML purposes. If our understanding is correct, we have no views on the percentage.

85. If your question is about communication by the issuer to UBOs, then of course we consider that every single UBO should be communicated with individually, regardless of how small their holding. Arbitrary holding sizes should not be imposed.

Question 9

Question 9 – do you agree that only issuers should have the ability to access information below the level of what is recorded on the company's share register? Should there be restrictions on how issuers can use that information, including sharing the information?

86. No, we do not agree that only issuers should have the ability to access information below the level of what is recorded on the company's share register. A key role of shareholders in a shareholder democracy is being able to hold directors to account. CA 2006 s.811(4) is a key part of this along with s.116 (4). These provisions allow shareholders access to the contact information of other shareholders, so as to allow shareholders to requisition shareholder resolutions, general meetings and require the company to distribute statements from dissenting shareholders to all the other shareholders. The proposals dangerously erode these rights.

87. Under the dematerialisation proposals being considered, the identity of the certificated shareholders currently on the register will be replaced with just the details of their nominee company. Shareholders seeking to hold management to account need to be able to communicate with other shareholders.

88. Accordingly, all those with a proper purpose should be able to access the information about UBOs to the same level of granularity as they can currently access for holders of certificated shares. We consider that the proper purpose test in CA 2006 of s811(4) works well. If you consider that it does not, we suggest consulting a sample of company registrars to see if there is any significant abuse of the existing access rules.

89. An alternative proposal that addresses our concerns whilst respecting the security of UBO personal information would be to require that, for communications that constitute a "proper purpose", as defined above, intermediaries must promptly transmit such communications to UBOs. Issuers and/or their registrars would make the determination of the "proper purpose" test, as currently, but there would be an additional obligation on intermediaries to pass on communications deemed to meet the test.

90. This alternative proposal could be further enhanced, both from the perspective of efficiency and security for all parties if issuers/registrars passed on such communications to registered shareholders, rather than providing share registers to the sources of the communications. For digitisation/efficiency purposes this alternative would require email addresses to be held on share registers and for members to consent to email communications.

G. Concluding comments

91. As we said at the beginning of this letter, we are grateful that this review is being conducted in a serious and deliberative way. These are important issues, and the review offers the opportunity to eliminate many of the bad practices amongst nominee services providers that have developed since CREST was first launched. However, we consider that the opportunity has not yet been grasped by the proposals which the Interim Report puts forward as its preferred alternatives.

92. If you wish to clarify any of our comments or discuss our thoughts further, please contact either of the signatories whose contact details are given below.

Yours sincerely

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