

Further answer to question on notice:

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

INQUIRY INTO THE IMPLICATIONS OF COMMON OWNERSHIP AND CAPITAL CONCENTRATION IN AUSTRALIA

Australian Institute of Superannuation Trustees: 22 September 2021, Hansard, p. 4

This response is in addition to the response provided to the committee by AIST on 21 October.

CO-AIST01QON:

Dr LEIGH: So, what 's your view on a beneficial ownership register?

[...]

Dr LEIGH: What about lowering the substantial shareholder declaration?

[...]

Dr LEIGH: What about portfolio disclosures by large listed investors, such as occurs in the US through section 13F filings?

Mr Haynes: We support portfolio holdings disclosure, with some caveats around the disclosure of unlisted assets and derivatives.

Dr LEIGH: So you'd be comfortable with large portfolio holders doing quarterly declarations of listed assets?

Mr Haynes: We haven't got a specific policy on that, but I would anticipate that we would be supportive of that.

Dr LEIGH: Okay. I suppose I'm pushing you on these things because your submission says we need to know more about common ownership, but the barrier to knowing more about common ownership is Australia's unusually opaque share register. So people who on one hand say we need to know more but on the other hand say we shouldn't have more disclosure seem to be arguing at cross-purposes with themselves.

Mr Haynes: I accept the logic of that proposition.

Dr LEIGH: Would you undertake to come back to this committee on the two transparency issues that I raised with you?

Mr Haynes: Yes, I will.

Further answer:

AIST supports improvements to disclosure and transparency regimes that help reveal those involved in illicit activities, such as tax evasion, money-laundering, bribery, corruption and terrorism financing.

When examining possible improvements to disclosure and transparency regimes, we encourage policy makers to leverage existing arrangements and consultation processes and take a consistent

and coordinated approach to policy development. Most importantly, proposals should clearly articulate what they are trying to achieve, and how they will reduce illicit activities.

We suggest the starting point for consideration of a register of beneficial ownership should be the Australian Government's February 2017 consultation paper on [Increasing Transparency of the Beneficial Ownership of Companies](#).

Despite the consultations on this February 2017 paper closing over 4 ½ years ago, the Government has neither responded to the submissions it received nor expressed a view on its intended way forward.

In answer to a question on notice asked at the Senate Economics Legislation Committee on 30 May 2018, the Government [stated](#):

Treasury has considered submissions to the public consultation and has provided the Minister for Revenue and Financial Services with recommendations to increase the transparency of beneficial ownership of companies.

What action, if any, is to be taken in relation to this matter is a policy matter for Government.

A Government [document](#) released under FOI further stated that:

As with any law or regulatory change, careful consideration needs to be given as to the impacts of collecting beneficial ownership information, what information should be collected and which agencies it should be made available to.

AIST agrees with this view but notes there have also been numerous developments in both Australia and internationally over the past 4 ½ years.

AIST suggests that an appropriate next step is for the Government to refresh the consultation paper and undertake a new round of consultations.

A further consultation process should include consideration of:

- The Financial Action Task Force's recent [public consultation on beneficial ownership](#).
- The Senate Legal and Constitutional Affairs References Committee's current [inquiry into the adequacy and efficacy of Australia's anti-money laundering and counter-terrorism financing \(AML/CTF\) regime](#) (including consideration of beneficial ownership).
- Superannuation funds are now subject to the portfolio holdings disclosure regime, and are already subject to the AML/CTF regime.
- The range of existing company information already collected by regulators, and ASIC's existing ownership tracing powers.
- However, ASIC does not support implementing a register on its current information technology platforms.

We suggest the Government develop a refreshed consultation paper (including a statement identifying what is to be achieved) as the basis for determining its way forward, and that the Committee recommend this to Government.

In relation to changing the substantial shareholding declaration, we propose suggesting the careful consideration of impacts and consequences, including unintended consequences. This could be progressed by a further consultation paper by Treasury ahead of any policy consideration by Government.