

David Sullivan
Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
Parliament House
Canberra ACT 2600
corporations.joint@aph.gov.au

Dear Mr Sullivan

Inquiry into shareholder engagement and participation

The Finance Sector Union of Australia (FSU) welcomes the opportunity to contribute to the inquiry into shareholder engagement and participation.

The FSU represents over 50,000 members employed in the finance sector across Australia. Our interest in shareholder engagement reflects our involvement in several AGMs and the increasing proportion of our membership who own shares in the companies for which they work.

Our submission is primarily based on our experience as an organisation representing our members. We note that a significant proportion of individuals own shares in Australia; however they do not generally take an active involvement in the companies they have invested in. This is probably due to a combination of reasons, some of which may not be directly related to the regulatory regime.

AGMs

- *Shareholder resolutions*

On several occasions the FSU's has used sections 249N and 249P to propose AGM resolutions and have material circulated with the notice of AGM.¹ These provisions are very useful to highlight issues to all shareholders and stimulate discussion and debate at AGMs, however they have not been widely used.²

This lack of utilisation may be due to the lack of knowledge about the availability of these mechanisms³ or the requirement for 100 signatures being too high for most small shareholders.

The FSU has previously supported lowering the threshold to 20 people for resolutions and notices for AGMs⁴ and believes this would lower one of the barriers to effective engagement by all shareholders in governance of listed companies.

¹ The FSU used these provisions to highlight concerns regarding 'off-shoring' at the 2006 AGM's of the following banks – ANZ, NAB, St George and Westpac.

² Stephen Mayne notes that only 12 AGMs over the last 15 years have involved shareholder resolutions (submission 18).

³ The FSU has been asked for advice by several organisations about how to use the provisions.

⁴ FSU submission regarding the *Corporations Amendment Bill (No. 2) 2005*.

The cost implications of such an amendment are likely to be negligible given that AGM notices will be distributed anyway and the AGM held regardless.

Even if the 100 signature rule remains in place it would be beneficial to undertake some form of educational initiative to make sure that shareholders are aware this mechanism is available to them.

- *Proxy voting*

The FSU notes the comments by Stephen Mayne⁵ in relation to the timing of proxy voting. Most AGMs votes are just a fait accompli given the cut off of proxies 48 hours before the meeting. If the deadline were changed to after the AGM concluded this could help to change the fairly perfunctory nature of most AGMs and ensure votes could be based on directors' presentations and ensuing debate at the meeting.

Directors

We note and endorse the comments made by ACSI⁶ regarding the increasing trend for large companies to only appoint directors who are already directors of other large companies. The desire to appoint experienced and successful directors is understandable but it seems likely that the longer term result will be decreased diversity in boardrooms and an increasingly 'closed shop' mentality in relation to selecting board candidates.

The FSU has also previously argued that there should be a prohibition on multiple chair holdings of listed companies and; that any director of an ASX listed company should not sit on more than four other ASX listed boards.⁷

The FSU also notes the hostile reception that FSU board candidate Joy Buckland received in 2003 when she nominated for the ANZ board. We acknowledge that ANZ complied with their legal obligations in relation to the process; however this was done in a fairly perfunctory manner rather than encouraging debate about the composition of the board and the issues raised by Joy's candidacy.

The ability for the current directors to declare that no vacancy exists for director candidates nominating from outside their own group further highlights the 'closed shop' nature of directorships.

Executive Remuneration

The FSU has often spoken out about the excesses of executive salaries in the finance sector. The requirement for a remuneration report has been a good initiative and provided a catalyst for debate about executive remuneration but the vote is still only a 'non-binding resolution'. Companies may be embarrassed by a strong vote against their remuneration report but it is unlikely to have any longer term effects beyond the news cycle of the AGM.

The vote on the remuneration report should be binding. It would still be a massive task to achieve a majority vote against but the prospect would at least focus the minds of directors before signing off on massive pay packets for executives.

⁵ Submission 18 – page 2.

⁶ Submission 11 – page 6.

⁷ FSU submission on CLERP 9 – 2003.

We note that in 2004 the Committee stated:

At this stage the Committee does not support the view that the remuneration report should be subject to a binding vote of shareholders. It notes that the non-binding vote is new and suggests that a sensible approach is to allow the non-binding vote ample time to be tested for its effectiveness before any further reforms are considered.⁸

We submit that the overwhelming rejection by shareholders of the Telstra remuneration report at the 2007 AGM and the arrogant reaction of the board provides a good example of why the remuneration vote should be binding. The fact that directors and executives are not required to take any notice of the wishes of a majority of shareholders can only contribute to these shareholders feeling disengaged.

We also note that from 2009 shareholders in France will have a binding vote on severance packages for chairmen, CEO's and deputy CEO's.⁹

Reports

The FSU often uses company reports for research purposes and while there is an increasing amount of information being published it can be quite difficult to ascertain where to look for different types of information. In some cases there may be 5 or more different places where information may be published, namely;

- Annual Report
- Concise Annual Report
- Sustainability/Stakeholder Report
- End of year update
- Information published on the website only

Unfortunately there is not always consistency as to what information is included in each source. We suspect that these difficulties are even more pronounced for shareholders with limited knowledge of corporate and financial matters. The FSU does not have fixed view as to how this could be resolved; we simply wish to highlight it as an issue for the Committee's consideration.

If you have any questions in relation to this submission please contact Rod Masson (03) 9261 5330 or James Bennett (02) 6247 7172.

Yours sincerely



Leon Carter
National Secretary
9 November 2007

⁸ Parliamentary Joint Committee on Corporations and Financial Services - June 2004 - CLERP (Audit Reform and Corporate Disclosure) Bill 2003 PART 1 Enforcement, executive remuneration, continuous disclosure, shareholder participation and related matters. Page XXIV.

⁹ GlobalProxy Watch – November 2007.