

INFORMATION RIGHTS : A UK Shareholders' Association Position Note

1. For shares held in nominee accounts access to section 146/147 information rights needs to be improved, but information rights will never be a substitute for full legal rights.

Full legal rights give owners the certainty of ownership and independence of action.

Investments in nominee accounts are vulnerable to custodian failures, for which compensation will always be inadequate (government limits, settlement delays and valuation disputes).

Whether to accept the costs associated with use of nominee accounts should always be a matter of investor choice.

2. For investors using nominee accounts the following improvements are needed to the Companies Act provisions for information rights:

- a) an automatic right to be nominated to receive them, with ability to opt out;
- b) freedom from any charge for this (unless one were to be imposed by law);
- c) extension of the relevant Companies Act sections to companies listed on the AIM;
- d) equivalent rights to be extended to holders of permanent interest bearing shares.

3. The Companies Act provisions for information rights make these dependent on nominations to companies, which is being interpreted as nomination to a company's registrar, but this begs the question of enforcement and calls into question the investor's position when an account provider requests a registrar to place the investor on a mailing list but without nominating him or her to be given information rights. Some clarification appears to be needed.

4. HMRC has issued guidelines for ISA providers which (ref. 4.30) put an ISA manager "under an obligation.... if the investor so elects," not only to have what equate to Companies Act information rights but also to attend meetings and vote (which now includes shares in the AIM). To be effective, these rights need means of enforcement and, given the range of holdings an investor may have, provided without any discouraging charges.

5. The same HMRC guideline (ref. 4.30) envisages shares held within ISAs being registered jointly in the names of the ISA manager and the provider, but this option is not being made available to investors by ISA managers. The option should be made an investor right, without extra charge.

6. The HMRC provision for jointly held shares could be provided to all nominee account users by an extension to Part 9 of the Companies Act, which if given as a right might make the provision of information rights more automatic (and would also enable custodian failures to be dealt with more quickly).