ShareSoc
UK Individual Shareholders Society

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The Business, Innovation and Skills Committee
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26 October 2016

Dear Sirs,

The Business, Innovation and Skills Committee Inquiry on Corporate Governance

Background about ShareSoc

ShareSoc supports individuals who invest directly in the stock market. We do this by promoting shareholders' rights to companies and by seeking to influence Government and regulatory policy. We want to ensure that shareholders have their proper say as owners of the businesses in which they invest. We also provide information including in-depth company reports, educational resources and networking opportunities - the latter with other investors and with quoted companies. We also provide a forum for the exchange of views between individual investors.

Our objective is to help our members to make money by protecting their interests and making sure they stay informed.

ShareSoc is a not-for-profit organisation, created by investors for investors.

The Board of ShareSoc (see Appendix 1) has examined your proposals and advised on this response.

Response

ShareSoc welcomes the opportunity to submit written evidence to the Business, Innovation and Skills Committee inquiry on corporate governance.

The views of individual shareholders tend to be under-represented in many policy discussions, which is surprising as often they have very sensible opinions based on quite detailed knowledge of how business and the markets work. Part of the problem is the way that individual shareholders are disenfranchised through the way nominee accounts operate. Further information is in Appendix 2.

There is a particular problem in relation to some AIM companies. The AIM market, which is run by the London Stock Exchange (LSE), has been frequently criticised for the quality of some companies listed on the market and for the way it operates. ShareSoc and its Members think that some reform is necessary. Further information is in Appendix 3.

ShareSoc has recently issued its remuneration guidelines, which contain a number of practical actions that could be implemented easily and a number of other ideas for discussion. Attached are a copy of our Remuneration Guidelines.

Individual investors do not have effective power to curb directors' pay. Fund managers, who are merely intermediaries in the ownership chain, have usurped this power: but have patently failed to provide effective stewardship. They are responsible for creating many of the current problems, yet to date seem to have avoided blame. Why should we expect them to suddenly change their behaviour? It is time for a strong input from Government and regulators of the London Stock Exchange to change the framework in which we are currently operating. The goal should be to get more power back to the ultimate investors. This can be achieved by:

i. ensuring that individual shareholders can exercise their rights, even if their shares are held in nominee accounts.
ii. ensuring that individual shareholders are educated about their rights and how to exercise them. ShareSoc, if sufficiently well resourced, can play a role in this. There should be government and/or NGO support for representative organisations such as ShareSoc, in particular for educational work.
iii. insisting that the London Stock Exchange properly regulate the AIM market.
iv. requiring a binding annual vote on the remuneration report (which vote is currently only advisory and has proved to be ineffective).
v. requiring companies to disclose the Pay Ratios over the previous 10 years of the CEO to the average employee and of the CEO to the second-highest paid employee. The 10-year disclosure creates the right long-term emphasis on this ratio, in a similar way to the TSR graph and table of CEO remuneration.
vi. introducing shareholder committees as outlined in the paper by Chris Philp MP "Restoring responsible ownership: ending the ownerless corporation and controlling executive pay", comprising of the five largest willing shareholders and a representative of individual investors.
vii. government stating its support for the ShareSoc Remuneration Guidelines, which recommend that the average FTSE 100 CEO pay should be reduced by approximately half and in particular that the maximum annual bonus should be 100% of salary and maximum long-term incentive award should be 100% of salary per year, except in the first year of appointment for external recruits.

We have responded below in more detail to the specific questions from the point of view of our members, who are individual shareholders.

Responses to specific questions

Directors' Duties

Q1 Is company law sufficiently clear on the roles of directors and non-executive directors, and are those duties the right ones? If not, how should it be amended?

The law should not distinguish between the roles of directors and non-executive directors as doing so would undermine the concept of a unitary board, which is fundamental to UK company law.

The duty of directors is set out in Chapter 2 of Part 10A of the Companies Act 2006. **No changes are required.**

Appendix 4 explains the differences between the law and the best practice guidance of the UK Corporate Governance Code, Higgs and ICSA.

Q2 Is the duty to promote the long-term success of the company clear and enforceable?

Duty to promote company success
Under section 172 directors must "promote the success of the company". This somewhat nebulous provision created significant debate during its passage through Parliament, since it goes on to prescribe that decisions should be taken in the interests of members, with regard to long term consequences, the need to act fairly between members, and a range of other "stakeholders", such as employees, suppliers, the environment, the general community, and creditors. Many groups objected to this "enlightened shareholder value" model, which in form elevated the interests of members, who are invariably shareholders, above other stakeholders. However, the duty is particularly difficult to sue

upon since it is only a duty for a director to do what she or "he considers, in good faith, would be most likely to promote the success of the company". Proof of subjective bad faith toward any group being difficult, directors have the discretion to balance all competing interests, even if to the short term detriment of shareholders in a particular instance. There is also a duty under section 173 to exercise independent judgment and the duty of care in section 174 applies to the decision making process of a director having regard to the factors listed in section 172, so it remains theoretically possible to challenge a decision if made without any rational basis. Only registered shareholders, not other stakeholders without being members of the general meeting, have standing to claim any breach of the provision.

Section 172's criteria are useful as an aspirational standard because in the annual Director's Report companies must explain how they have complied with their duties to stakeholders. Also, the idea of whether a company's success will be promoted is central when a court determines whether a derivative claim should proceed in the course of corporate litigation.

The duty to "promote the long term success" is not law, but a (relatively recent, 2014) requirement of the UK Corporate Governance Code which says:

> **The Main Principles of the Code**
>
> **Section A: Leadership**
>
> Every company should be headed by an effective board which is collectively responsible for the long-term success of the company.

Companies have to report to their shareholders if they have followed the Code or explain why not. It is too early to say whether this Code change has been effective.

Q3 How are the interests of shareholders, current and former employees best balanced?

There are many stakeholders who have an interest in the success of a company. Employees should not be singled out as having preference over any other stakeholder group. Different stakeholders will have different and often competing interests and the role of directors will be impossible if they have to formally weight those competing interests. A requirement to promote the success of the company, over the longer term where relevant, is the best way to balance the competing interests of different stakeholder groups.

Any business focussed on the longer term will take care to look after the interests of stakeholders such as employees, customers, suppliers and the local community, as well as taking care of the environment in which they operate.

In Groups with a defined benefit pension scheme which is in deficit, it may be appropriate to require additional contributions to be made to the pension scheme if a dividend is paid. Such an additional contribution could be the lower of the amount paid as dividend or (say) 5 times the amount of agreed additional annual contributions to make good the deficit.

Q4 How best should the decisions of Boards be scrutinised and open to challenge?

Directors' duties are to promote the success of the company for the benefit of its members as a whole. The members (shareholders) are therefore the most appropriate group to scrutinise and challenge the decisions of directors. In order to do this effectively shareholders need good quality, timely, information, and a venue or format (such as an AGM, investor meetings or a Shareholder Committee) in which that challenge can take place.

Our members attend many AGMs and ask questions and our website contains write-ups of members' visits to AGMs. The AGM itself and the opportunity to mingle with directors before and afterwards are great opportunities to question and gather explanations of concerns and if need be to challenge Boards. **It is very disappointing that so many Fund Managers do not attend AGMs.**

Revitalising AGMs should be seen as a priority. Whilst some AGMs are well run, well attended, interesting and provide a lot of information to shareholders (Aviva and WPP were good examples in 2016), far too many are poorly attended with little attempts from boards to impart information to shareholders. Companies should be encouraged to produce real time webcasts and videos of their AGM. Allowing questions via the web should also be encouraged. This will help in holding boards to account.

Many of the corporate governance issues that have arisen in quoted companies are because of a lack of challenge by those people that the companies' boards listen to, i.e. shareholders and also to an extent sponsors, nomads and brokers.

Individual investors do not, in most cases, have effective power to challenge boards or curb directors' pay. Fund managers, who are merely intermediaries in the ownership chain, have usurped this power and have failed to challenge boards. They are responsible for creating the current problems, yet to date seem to have avoided blame. Why should we expect them to suddenly change their behaviour? It is time for a strong input from Government and regulators of the London stock exchange to change the framework in which we are currently operating. The goal should be to get more power back to the ultimate investors.

The Red Line voting project of the AMNT needs to be progressed faster. See http://redlinevoting.org/what-is-red-line-voting/ for more information on this.

There should be an obligation on fund managers to reflect the views of beneficial owners. The Times Money "Shareholder Democracy Campaign" is worth considering, as is the DSW model in Germany where they have collective representation of all of their members. Currently, in the UK, it is not possible for third parties to collect proxies from beneficial owners (only the nominee operator can effectively do so and they have little interest in encouraging voting), Company law should be changed to permit anyone to collect proxies as well as specifically requiring nominee operators to offer voting and other rights to their beneficial owners as part of the reform to shareholder rights.

ShareSoc, if sufficiently well resourced, can play a role by ensuring that individual shareholders are educated about their rights and how to exercise them. There should be government and/or NGO support for ShareSoc, in particular for our educational work (especially on/via the website).

Q5 Should there be greater alignment between the rules governing public and private companies? What would be the consequences of this?

ShareSoc does not have a strong view on question five.

Q6 Should additional duties be placed on companies to promote greater transparency, e.g. around the roles of advisors. If so, what should be published and why? What would the impact of this be on business behaviour and costs to business?

Fees paid to consultants for other services to the company should be disclosed as well as fees for advice to the remuneration committee. This will highlight potential conflicts of interest. The Waxman enquiry found that fees for other services averaged 11 times the fees for advice to the remuneration committee - this highlighted how difficult it can be for some remuneration consultants to give advice that the executive management may not like!

The cost impact of such transparency to companies would be minimal. (The cost of compliance for consultants who provide multiple service lines may be larger) The benefits to business in the UK would be substantial in relation to the costs to quoted companies. Avoiding just one corporate governance disaster would be a huge saving and cost benefit.

Q7 How effectively have the provisions of the 1992 Cadbury report been embedded? How best can shareholders have confidence that Executives are subject to independent challenge?

There are many cases where the Executives have not been subject to rigorous independent challenge. The banks' shareholders (in the UK) lost hundreds of billions of pounds of shareholder value in the 2007/08 Financial Crisis. But it is not just the banks. Other examples are:

BP – insufficient attention paid to safety

Tesco – accounting anomalies, pre booking revenue

GlaxoSmithKline – bribery in China

Shell – overstatement of reserves

G4S and Serco – overcharging for prison services. G4S also failed to meet the London 2012 Security Contract.

It is the role of NED to provide challenge in the first instance, but in many cases we see a lack of effective independence and challenge on UK boards, leaving the Executives without effective control. Shareholders (i.e. primarily fund managers), as the group with the most interest in controlling the Executives, should also be providing effective challenge. They either need to allocate more resource to this task, or hold shares in fewer companies so as to focus their existing resources more effectively and in more depth. A shareholder committee (of the top five willing shareholders plus a representative of individual shareholders), as suggested by Chris Philp MP, may be useful in providing a framework for discussions and challenge. Better reporting of their corporate stewardship actions by fund managers to their investor clients would improve accountability and encourage a more active role.

The provisions of the 1992 Cadbury Report remain relevant today. The UK Corporate Governance Code, by focus sing on structures and processes detracts from the more important aspects of governance which are having people with the right mix of skills and experience, working together, in a culture of constructive challenge and continuous improvement. It is the right outcomes that are important not the different ways that outcomes can be achieved.

The Committee should note that poor governance is not limited to quoted companies. Kids Company, The Co-Operative Group and several NHS Trusts are examples of poor governance in other sectors.

Q8 Should Government regulate or rely on guidance and professional bodies to ensure that Directors fulfil their duties effectively?

We find it difficult to envisage how the Government can regulate to ensure that Directors fulfil their duties (as set out already in regulation) effectively.

Guidance (from professional bodies or others) can help directors fulfil their duties effectively, but cannot and should not replace individual judgement. Guidance is too often interpreted as rules and followed to inappropriate conclusions.

Increasing regulation does little to discourage crooks from breaking the law, but instead makes life more difficult for the honest.

More, and higher quality, feedback from investors is the best way to promote improvement in performance. If shareholders are perceived not to care, regulation will just create compliance activity rather than meaningful change.

Very, very few people in the UK have gone to jail as a result of their actions that led to the 2007/08 Financial Crisis, yet millions of people have suffered severe hardship as a result. The SFO and the Crown Prosecution Service should be asked by the Committee to explain why they have not been able to prosecute and why more examples have not been made.

On the 27th September 2016, the BBC broadcast an analysis of AIM and asked whether enough is being done to protect investors. ShareSoc was involved in supplying some of the evidence for the programme and ShareSoc director David Stredder spoke on it. See our blog for a report on it here: **BBC-File-On-Four** . ShareSoc has held meetings recently with the management of AIM and we hope more will come of that in due course. An update on that and the BBC programme was sent to our contacts on the AIM campaign.

Executive Pay

Q9 What factors have influenced the steep rise in executive pay over the past 30 years relative to salaries of more junior employees?

1. The problem is primarily a FTSE 100 problem.

We have seen no evidence of a steep rise in the pay of the executive directors of most Small Cap and AIM companies over the past 30 years. It is unfair to tarnish the reputations of the vast majority of quoted companies because of what is primarily a FTSE 100 company problem.

2. LTI and Bonus are the cause of the steep rise.

Data from Manifest show the factors that have influenced the average FTSE 100 CEO pay over the past 18 years from 1998 to 2015:

- Salaries have increased by 95%, a compound rate of 4% p.a.;
- Bonuses have increased by 540%, a compound rate of 11% p.a.;
- Long term incentives have increased by 1,133%, a compound rate of 16% p.a.;
- Total Remuneration Awarded has increased by 322%, a compound rate of 9% p.a.

It is worth noting that over this period for FTSE 100 companies:

- The average market capitalisation increased by 78%, a compound rate of 3% p.a.;
- The average turnover increased by 171%, a compound rate of 6% p.a.;
- The average total shareholder return was 89%, a compound rate of 4% p.a.

The above data show that the main factors that affected FTSE100 CEO pay were increases in long term incentives and bonuses.

Bonus opportunities of 200% salary p.a. and long term incentive awards of 300% of salary p.a. are now commonplace in FTSE 100 companies. Payouts to executives are a consequence of the size of awards, the toughness of the performance targets and the performance of the company over the performance period.

3. Fund Managers have failed to do what we expect of them.

The main factor influencing executive pay over the past 30 years is the fund managers who approved the remuneration plans. The other main factors influencing executive pay over the past 30 years were the "best practices" guidance of the ABI, the NAPF and some of the leading fund managers. These encouraged the use of performance related pay, but said little about quantum of pay. As a result, companies introduced bonus and long term incentive plans **in addition to** existing remuneration and/or **increased** the potential payments. Throughout this period most shareholders did not object to remuneration increases. Indeed, it is arguable that up until 2003, most shareholders and fund managers did not have the technical capability to calculate the total remuneration awarded (i.e. the expected value of awards) or the total remuneration received (i.e. the amounts received that you have to pay tax on, except for pension which is counted differently). Only recently have the Working Party set up by the Investment Association identified the problem of "remuneration creep". This matter is important as it is symptomatic of a gradual breakdown of the agency model.

4. Pay disclosure and increased visibility is not a cause.

It is commonly argued that the visibility of amounts paid to executives has a ratchet effect on executive pay, especially in the absence of shareholder actions to restrain pay, **but this is a myth that has no basis in logic.** When pay did not have to be disclosed, companies still knew how much other companies were paying via informal exchanges of information and through remuneration surveys conducted by Hay, Towers Perrin and others. Recruitment consultants also inputted into the debate. It is arguable that the new visibility of amounts paid has reduced pay as executives are less able to puff up stories of how much competitors are paid.

The lack of visibility of hedge fund and private equity remuneration levels has not curbed their remuneration.

It is arguable that remuneration of hedge funds managers, private equity managers, accountants, lawyers and investment bankers had been used as justification for increasing executive pay in quoted companies.

We do not call for less visibility on pay, but instead for shareholders to take action and set examples.

5. Unrestrained executive greed.

Another factor influencing executive pay is unrestrained executive greed. We should expect executives to be greedy. It is up to others to restrain them. The first line of defence is the non-executive directors on the remuneration committee. If that does not work, then shareholders have to vote down remuneration proposals and if necessary vote off the non-executive directors who proposed them.

6. Voting happens too late in the process.

The vote at the AGM is too late, as institutions do not like to vote against the directors' recommendations. This impasse can be broken - through the introduction of shareholder committees, who will be able to engage much earlier in the process.

Q10 How should executive pay take account of companies' long-term performance?

The question conflates the issue of CEO pay and pay of other executives. CEO's are more able to influence company performance than other executives and should have more of their remuneration linked to it than other executives.

ShareSoc are in favour of equity based long term incentives, so long as they are not too large (500% of salary is too large. We think 100% of salary p.a. is sufficient except for external hires in their first year of their appointment.). We also favour executives building up and holding onto significant amounts of shares in their company.

We note that remuneration arrangements for executive directors are an important factor in ensuring that they are motivated to create value for shareholders. Companies of all sizes face many choices in tackling issues of remuneration; this is particularly true for small and mid-size quoted companies.

We believe that companies should approach matters of remuneration in a way that is proportionate, rational and measured. Equally, companies should be clear and transparent when setting executive pay, in order to nurture the development of trust between companies and shareholders. Models of remuneration should support the sustained alignment of interests between directors and shareholders which should help to deliver long-term growth in shareholder value.

We believe that a significant proportion of an executive director's remuneration should be performance based. This can be done by linking pay to strategic milestones, key performance indicators (KPIs) and value drivers that incorporate challenging and transparent targets related to corporate and individual performance.

The principles and culture of long-term share ownership within a business should be encouraged at all levels, through establishing share ownership schemes, share retention guidelines and other means. Share schemes that allow all employees to share in the success of the company should be encouraged.

Each company will have a share dealing code in place setting out how share sales may be conducted. The remuneration committee might require shares vesting through incentive schemes to be retained in the long-term. Normally large blocks of shares should not be sold while directors maintain tenure at the company, except to fund tax obligations relating to awards and exceptional circumstances.

Deferral of annual bonus into shares helps executive directors to have a long-term focus.

It would generally be appropriate for any company which issue shares to a senior employee through an incentive scheme to protect itself with clawback arrangements.

Q11 Should executive pay reflect the value added by executives to companies relative to more junior employees? If so, how?

Again, the question conflates the issue of CEO pay and pay of other executives.

The success of a company is likely to derive from the activities of a team of people who should all share in the rewards of success. How such rewards are apportioned should be a matter for Boards taking into account the particular circumstances of the company, should be set out in the remuneration policy, and reported on by Remuneration Committees.

Profit Sharing schemes and employee share schemes are good ways to allow all employees to share in success.

Q12 What evidence is there that executive pay is too high? How, if at all, should Government seek to influence or control executive pay?

Again, the question conflates the issue of CEO pay and pay of other executives.

Few CEOs of FTSE 100 companies leave voluntarily to move to other companies. This suggests that FTSE 100 CEO pay is too high.

There is no accepted definition of "too high" against which evidence of executive pay can be measured. The use of multiples of average pay can easily be subverted by outsourcing lower paid functions, which may detrimentally affect workers' rights and employment conditions. The risk of unexpected consequences is too high for such an approach. History tells us that any government action to control pay just results in increasingly innovative methods of reward that negate the purpose of the regulation and impose greater compliance costs on business.

Nevertheless, we support the publication of pay ratios, of the CEO to the average employee pay over the past 10 years; so that shareholders and employees can see how the ratio has moved over time and confirm the justification of why it is deserved, or not.

The only effective way to cap excessive pay is for shareholders to be vocal in their support for restraint and for them to take action against executives whose pay is deemed to be too high. As part of supporting restraint, shareholders need to communicate clearly their expectations, particularly to executive directors, remuneration committees and remuneration consultants. This is most effectively done face to face, rather than though regulators or trade bodies.

Q13 Do recent high-profile shareholder actions demonstrate that the current framework for controlling executive pay is bedding in effectively? Should shareholders have a greater role?

We are now two years into the new voting and disclosure regime and it might appear to be working to some degree. There are at least three key areas of progress so far: –

i. paying excessive remuneration when the companies make a large loss or have a very poor year is now viewed as unacceptable. The recent examples of BHP Billiton and Burberry where bonuses were not paid and long-term incentives payouts were deferred are examples of progress. The very uncomfortable situation at BP is an example to others to steer clear and avoid unnecessary bad PR.
ii. Awarding excessive amounts of shares at the bottom of the cycle. The examples of Persimmon and Berkeley Holdings Group are classics of this and have led to excessive pay. The example of Anglo-American, where they had a lot of criticism even though the vote squeezed through, has forced others to rethink. Most notably BHP Billiton reduced the award by 25%, this year.
iii. Salary increases seem to be hovering around the 2% level for chief executives of FTSE 100 companies. It is very difficult to give increases higher than the average for other employees.

Shareholders should be encouraged to take an active interest in the company they have shares in. Through their involvement they can encourage the company to improve its corporate governance measures which is likely to lead to better performance of the company. While there is a risk that too close involvement may lead to some shareholders having price-sensitive information depriving them of the legal right to trade shares, this is manageable.

Composition of Boards

Q14 What evidence is there that more diverse company boards perform better?

ShareSoc supports diversity in principle, but does not have a specific response to this question.

Q15 How should greater diversity of board membership be achieved? What should diversity include, e.g. gender, ethnicity, age, sexuality, disability, experience, socio-economic background?

ShareSoc supports the principle of diversity of board membership, but is of the view that this should be achieved as a by-product of obtaining independence and a diverse skills mix. ShareSoc does not support the concept of quotas.

The use of shareholder committees to approve the process for recruitment of non-executive directors (including chairmen) and the recruitment criteria, and to ratify the outcome of the process is a possible improvement on the current system. This will help develop trust between shareholders and directors.

Q16 Should there be worker representation on boards and/or remuneration committees? If so, what form should this take?

A requirement to have workers on boards may help break the current impasse on executive pay. Companies seeking to be successful over the longer term will strive to keep employees motivated and engaged through a number of mechanisms, which will vary according to the type of company and the stage of its development. A one size fits all solution will not be appropriate for many of the companies affected.

A better, and potentially complementary solution may be to have a representative of individual shareholders on the Board and/or remuneration committee. Individual shareholders collectively hold 10% of the shares in UK companies.

Q17 What more should be done to increase the number of women in Executive positions on boards?

This is a good question, but beyond our expertise to answer.

If you would like to discuss our response in more detail, we would be happy to attend a meeting.

Yours faithfully,

Mark Northway, Chairman

Roger Lawson, Deputy Chairman

Cliff Weight, Director

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APPENDIX 1 ShareSoc BOARD OF DIRECTORS

BACKGROUND INFORMATION ON THE DIRECTORS OF THE UK INDIVIDUAL SHAREHOLDERS SOCIETY

Chairman: Mark Northway, BA, MBA, IMC. Mark is an experienced practitioner in financial markets with wide ranging managerial and governance experience across credit, fixed income, equity and treasury markets, and associated cash and derivative instruments. His experience spans multiple disciplines including marketing, trading, investment and the management of complex financial and regulatory risk within a variety of vehicles and legal structures.

Deputy Chairman: Roger Lawson, M.B.A., M.B.C.S., C.I.T.P. had a career mainly as a director of IT companies. Since retiring at the age of 50 he has invested widely in the stock market and has also done some "business angel" investments in early stage companies. He was a board member of a mutual association with a particular interest in marketing and PR for some years and has also been involved with several shareholder action groups. He has written many articles on stock market investment, and led representations on the Companies Act, electronic communication and share "dematerialisation".

Stan Grierson, M.A. has been a stock market investor for many years. He started his career as an officer in the Royal Air Force before spending time with a major IT company, mainly in marketing. Later, he formed his own successful company as a catering wholesaler. He has been working to help private shareholders in various positions for some years and as a member of Euroshareholders, which supports investors in twenty eight other European nations, with particular regard to the EU.

David Stredder. David started as a sports journalist in his early working life but he decided to concentrate on his growing property management business from the age of 29. That business grew to be one of the largest in South London and was sold to an industry consolidator in the late nineties. Since then he has concentrated on his listed and unlisted investments and is an active small cap investor. David was a founder and eventual chairman of the London Business Club and networking continues to play an important role with the regular monthly investor dinners and company presentations that he arranges in South East London.

Mark Bentley, M.A. Mark has been a full-time stock market investor since 2004, having pursued investment as a rewarding hobby for 20 years previously. Most of Mark's career was spent in the I.T. industry beginning with Logica in 1980, where he worked on the Giotto Halley's Comet intercept mission for the European Space Agency amongst other projects. In 1987 Mark started his own IT services business, Anvil Technology Ltd, which he ran successfully for 14 years. He is an active investor, attending many company meetings each year and publishes his findings on a number of investment orientated web sites.

Mark Lauber, CFA. Mark has a background in finance, having worked for major banks internationally with a focus on investment products. In 2008 he founded Irongate Capital Ltd., an independent consulting and investment vehicle, to develop interests in corporate finance and private equity investment. One of his current projects is the orderly realisation of assets for a private equity and commercial property firm so as to preserve and maximise shareholder value. While maintaining holdings in larger FTSE companies, he is also a keen investor in special situations (usually looking for fixed income characteristics), VCTs, and smaller listed and unlisted UK companies.

Mike Dennis is a chartered engineer by profession who worked firstly for Shell and then later for BOC, the industrial gas business. In the latter part of his time there he moved into sales, marketing and business development and ultimately spent several years as a board director for BOC's UK businesses. Since 2012 Mike has been running his own consultancy business and spending time developing his own investment portfolio. Mike is also a STEM (Science, Technology, Engineering and Maths) ambassador and spends time encouraging students to take in interest in STEM related careers.

Chris Spencer-Phillips has considerable experience of recruiting at Board Level, specialises in Non-Exec Director projects and is a qualified personal profile and psychometric analyst. Chris has a background in advertising (Young & Rubicam, US) and the graphics industry (Letraset) as well as starting two publishing companies (Doverlodge and Datateam). He is a keen golfer (Rye & St Enodoc), a former racehorse breeder (champion sprinter in Ireland) and was a Council Member of the Racehorse Owners Assoc for 16 years.

Cliff Weight has been a stock market investor since 1984. He now focuses on smaller growth companies. He is a non-executive director of Manifest, the corporate governance experts, MM&K Limited, the leading independent remuneration consultant, and has 30 years' experience as a remuneration consultant advising many FTSE 350, SmallCap and AIM companies. He is a member of the QCA Corporate Governance Expert Group, the Editorial Board of Executive Compensation Briefing and the Advisory Board of the High Pay Centre. He is the author of the Directors' Remuneration Handbook.

Appendix 2 SHAREHOLDER RIGHTS CAMPAIGN

A CAMPAIGN MANAGED BY SHARESOC

Guaranteed Rights for Shareholders

In October 2014 ShareSoc launched a campaign to give full rights to ALL shareholders.

Shareholders Disenfranchised
At present most private investors purchase shares in nominee accounts. With a very few exceptions this means that they have no automatic rights to vote, to attend General Meetings of companies or even receive information on the affairs of the company. The nominee system disenfranchises the vast majority of private shareholders.

Commercial Interests have taken Precedence
This situation has arisen because the nominee system offers certain commercial attractions to stockbrokers and other financial market intermediaries, and because the Government has not given priority to the protection of the rights of individual investors.

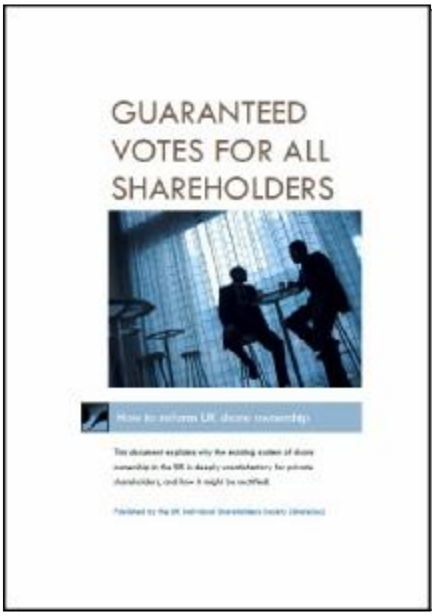
Rights not Exercisable
Although in theory investors via nominee accounts have rights to vote, attend meetings and receive information under the Companies Act, those rights are in practice not exercisable, and are not exercised, by the vast majority of private investors. In addition, many rights that are otherwise available to shareholders who are on the register of a company are lost.

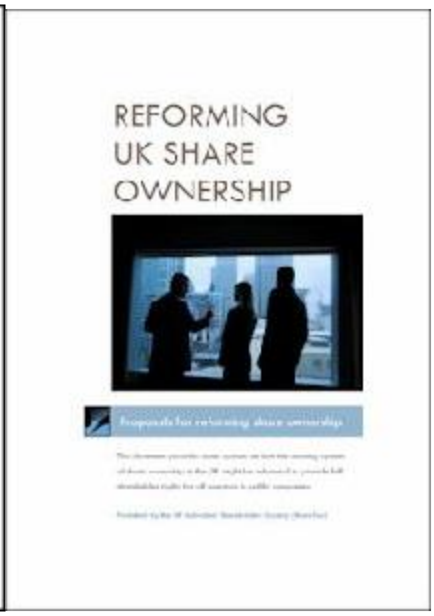
Shareholder Democracy Destroyed
Shareholder democracy has been fatally undermined by the historic changes to the way the UK stock market operates to the detriment of good corporate governance in companies as the voice of individual shareholders is lost. Individual shareholders have a direct ownership interest rather than simply acting as agents for others as is the case with many institutional investors, so they are more likely to express concerns about management failings, excessive director pay and poor corporate governance.

You can get a verbal explanation from Roger Lawson of why shareholder rights are important and what needs to be done to improve the current situation by clicking on this YouTube video https://www.youtube.com/watch?v=REu23z49JjQ&feature=youtu.be .

A meeting was held on the 14th October 2014 to promote this campaign and several speakers explained how and why the current situation has come to pass. ShareSoc presented our conclusions on how it should be rectified. Speakers at the meeting were **Stan Grierson** and **Roger Lawson** from **ShareSoc**, **Peter Swabey** from **ICSA**, **John Lee** (Lord Lee of Trafford, a well-known FT writer and private investor), **John Kay** (author of the Kay Review and FT writer), **Paul Scott** a well know private investor and blogger, **Cas Sydorowitz** from **Georgesons** and **Michael Kempe** from Capita representing the **ICSA Registrars Group**. A report of the meeting is present in this document: **Shareholder-Rights-Meeting-Report**. There was a general consensus of both the speakers and the audience that there are numerous problems with the existing nominee system and with dematerialisation looming it was necessary to devise new arrangements.

If you wish to register an interest in this campaign, please use the **Contact** form on this web site to request that you be added to our contact list for the Shareholder Rights Campaign. Please call 0333-200-1595 if you have any questions.





DOWNLOAD THE FULL ANALYSES

We have published two lengthy documents that contain a complete analysis of the issues on shareholder rights and how to resolve the problems. These can be downloaded from here: **Guaranteed-Votes** and **Reforming-UK-Share-Ownership** (click on to access). Cover photos are above. A summary of our proposals was contained in this press release: **Press063** . It includes support for a new low cost electronic trading facility to meet the CSDR regulations that should be available to everyone, and ways to ensure that everyone is on the share register of companies and hence get full rights.

DEFEATING SHAREHOLDER DEMOCRACY

Examples of how the existing shareholding arrangements defeat shareholder democracy and rights were given in this blog post in July 2015: **Defeating-shareholder-democracy**

In January 2016 the Government BIS Department published a Research Paper entitled "Exploring the Intermediated Shareholding Model". It explains the mind-boggling complexity of the existing UK share registration models and the underlying systems that support shareholder rights (including voting). It demonstrates perfectly the need for reform. This note gave our comments on that Paper: **BIS-Paper-Shareholding-Model**

Appendix 3 CAMPAIGN TO IMPROVE THE AIM MARKET

A CAMPAIGN MANAGED BY SHARESOC

How the AIM Market Should Be Improved

This campaign was launched with a press release in June 2016 (although the problems of the AIM market have been long-standing). It said the following:

The AIM market, which is run by the London Stock Exchange (LSE), has been criticised by many people for the quality of companies listed on the market and for the way it operates. ShareSoc and our Members think that some reform is necessary.

There is no denying that it is possible to invest in successful AIM companies but as any experienced AIM investor knows, doing so consistently and avoiding those that either never establish a profitable business, get delisted, go bust or otherwise become the walking dead is another matter altogether. Picking out the quality companies that will give a good return from buying their shares is not easy and in comparison with main market companies it is a minefield for inexperienced investors.

Over 3,500 companies have joined AIM in the last 20 years since the market was launched. How many are left? The answer is about 1,000. Now some will have moved to the main market, and some will have been taken over (not necessarily at a profit for the shareholders from their original investment), but clearly there is a very large amount of turnover in AIM companies. Many will have gone bust or been delisted. Or as Clare Barrett said in the Financial Times: "20 years of a few winners and many losers".

One only has to remember recent cases such as Globo and Silverdell, or companies such as Izodia, Versailles and Langbar, or the numerous oil/gas or mineral exploration companies some of which were of course simply fraudulent businesses. Do the few, sometimes massive, winners offset the losers? The answer is no. The AIM index has underperformed main market indices over the last 20 years.

The LSE has consistently defended the way AIM operates and claims it is one of the most successful small cap exchanges in the world. But many private investors would not agree.
The reputation of AIM is such that it actually puts off good quality companies from listing on it. Therefore, SMEs that wish to raise equity for expansion are often discouraged from listing on AIM and this is damaging for the health of the UK economy.

But there are some simple ways to improve the AIM market without imposing large costs on the market participants. ShareSoc has published a document which spells out exactly what should be done. It is present on our web site here: **Improving-the-AIM-Market**

Summary of Key Recommendations:

These are a few of the key recommendations in our proposal:
- The enforcement of AIM regulations needs to be improved.
- The roles of Nomad and Corporate Broker should be separated because of the conflict of interest therein.
- A corporate governance code should be introduced.
- Directors remuneration should be reported and votes required to approve it at AGMs.
- AIM company directors should have knowledge of UK Company Law.
- Share placings should be constrained.
- New listings should be vetted by an independent panel.
- Nomads should have clearer responsibilities.
- Non-executive directors should be clearly independent and have a limited number of roles.
- General Meetings should be held within the UK and at convenient dates and times.
- All AIM company directors should be fluent in English.

These recommendations are spelled out in more detail with explanations for their need in the aforementioned document.

Update 1 - 8/10/2016. On the 27th September the BBC broadcast an analysis of AIM and asked whether enough is being done to protect investors. ShareSoc was involved in supplying some of the evidence for the programme and David Stredder spoke on it. See our blog for a report on it here: **BBC-File-On-Four** . Soon after ShareSoc had a meeting with the management of AIM and we hope more will come of that in due course. An update on that and the BBC programme was sent to our contacts on the AIM campaign (sign the AIM petition below to get on the contact list).

Appendix 4: Background on Duties of Directors

The Companies Act 2006 codified the duties of directors. The critical section is s 172(1), duty to promote the success of the company:

> ‘(1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to –
>
> (a) the likely consequences of any decision in the long term,
>
> (b) the interests of the company's employees,
>
> (c) the need to foster the company's business relationships with suppliers, customers and others,
>
> (d) the impact of the company's operations on the community and the environment,
>
> (e) the desirability of the company maintaining a reputation for high standards of business conduct, and
>
> (f) the need to act fairly as between members of the company.’

The definition provided in s 172 (1), often described as ‘enlightened shareholder value’, requires directors to have regard to the long term interests of the company.

The majority of respondents to the Kay Review[1] took the view that this definition gave sufficient emphasis to the success of the company and the promotion of its long term performance.

As well as Company Law, the Committee should consider the best practice guidance which companies should follow.

Sir Derek Higgs, in his Higgs Review, laid out the role of non-executives and this is now encapsulated in ICSA guidance:

Non-Executive Directors have the normal responsibilities of all directors, plus Non-Executive Directors have responsibilities in the following areas:

- **Strategy:** Non-Executive Directors should constructively challenge and contribute to the development of strategy.
- **Performance:** Non-Executive Directors should scrutinise the performance of management in meeting agreed goals and objectives and monitoring.
- **Risk:** Non-Executive Directors should satisfy themselves that financial information is accurate and that financial controls and systems of risk management are robust and defensible.
- **People:** Non-Executive Directors are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary removing, senior management and in succession planning.

Non-Executive Directors are the custodians of the **governance** process. They are not involved in the day-to-day running of business but monitor the executive activity and contribute to the development of **strategy.**

The UK Corporate Governance Code, published and maintained by the FRC, says in **Section A.4: Non-Executive Directors**

Main Principle

As part of their role as members of a unitary board, non-executive directors should constructively challenge and help develop proposals on strategy.

1 http://www.bis.gov.uk/assets/biscore/business-law/docs/k/12-917-kay-review-of-equity-markets-final-report.pdf

Supporting Principle

Non-executive directors should scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance. They should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible. They are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing and, where necessary, removing executive directors, and in succession planning.

Code Provisions

A.4.1. The board should appoint one of the independent non-executive directors to be the senior independent director to provide a sounding board for the chairman and to serve as an intermediary for the other directors when necessary. The senior independent director should be available to shareholders if they have concerns which contact through the normal channels of chairman, chief executive or other executive directors has failed to resolve or for which such contact is inappropriate.

A.4.2. The chairman should hold meetings with the non-executive directors without the executives present. Led by the senior independent director, the non-executive directors should meet without the chairman present at least annually to appraise the chairman's performance and on such other occasions as are deemed appropriate.

A.4.3. Where directors have concerns which cannot be resolved about the running of the company or a proposed action, they should ensure that their concerns are recorded in the board minutes. On resignation, a non-executive director should provide a written statement to the chairman, for circulation to the board, if they have any such concerns.