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AGM

19 November 2007
5.00 onwards
Melbourne

20% TAKEOVER RULE UNDER REVIEW

ACSI has always been cognisant of the rule that requires a takeover to be launched if an investment in a company moves beyond 20 per cent and was pleased to learn via the AFR on 5 June 2007 'Support for regulator's takeover reform plan' that Australian Securities and Investments Commission (ASIC) has commenced a review of this rule.

The review is being conducted because of the volumes of money flowing into the superannuation system, which is pushing fund managers holdings towards this threshold.

For further details view the section "Disaggregation and the takeover threshold" in

[http://www.asic.gov.au/asic/pdflib.nsf/LookUpByFileName/SDIA%20speech jun %202007.pdf/\\$file/SDIA%20speech jun %202007.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookUpByFileName/SDIA%20speech%20jun%202007.pdf/$file/SDIA%20speech%20jun%202007.pdf)

We'll keep you informed of any developments in this area.

CORPORATE & MARKET REGULATION

On 2 June 2007 a speech by Jeremy Cooper, Deputy Chairman, ASIC provided an interesting insight into ASIC's views on some very topical issues including private equity; continuous disclosure; insider trading and disaggregation and the takeover threshold which we noted in the previous article.

PRIVATE EQUITY

To summarise, ASIC's views on Private Equity are:

- That private equity can play an important role in ensuring an efficient and dynamic business sector;

DATES TO REMEMBER:

ACSI Conference

Licence to Operate
15 June 2007
Sofitel Melbourne, Collins Street
Registrations close 8 June 2007
For further details visit www.acsi.org.au

Implementing the PRI

Lunch-time Seminar
21 August 2007
12.00-2.00pm, Melbourne
Details to be distributed in July

ACSI Media Award Ceremony

Wednesday 26 September 2007
12.00 - 2.00pm
Level 2, RACV Club
501 Bourke Street in Melbourne

- That the threat of a takeover by a private equity fund helps ensure that the existing managers of firms have a strong incentive to manage the assets under their control as efficiently as possible; and
- That increased leverage does not appear to represent a significant near-term risk to either the stability of the financial system, or the economy more broadly. The exposure of the Australian banking sector to private equity is well contained and both the leverage and the debt servicing ratios for the corporate sector, as a whole, remains relatively low.
- Given the potential implications of private equity activity for the depth and integrity of public capital markets, as well as the importance of investors understanding the risks they are taking on, ASIC, as well as the other agencies making up the Council of Financial Regulators will continue to monitor developments closely.

On the issue of whether the regulation of private equity is likely to change, Mr Cooper made reference to the recent Standing Committee on Economics inquiry in this area. The Committee has received 21 submissions. The Committee is expected to report back to the Senate by the end of this month.

CONTINUOUS DISCLOSURE

When it comes to dealing with continuous disclosure breaches, ASIC has a wide range of regulatory options. In his speech Mr Cooper provided three recent examples which highlights the different tools and approaches available to ASIC depending on the nature of the breach. The examples included Harts Australasia Criminal Action, Multiplex enforceable undertaking and the Promina infringement notice.

INSIDER TRADING

ASIC has created a new taskforce to tackle insider trading and market manipulation. The taskforce is being established to determine

what additional actions ASIC, in cooperation with the ASX, can take in the areas of insider trading, market manipulation and continuous disclosure. Part of the taskforce's work will be to assess new investigation techniques building on best practice overseas. The taskforce's remit will cover both exchange-traded products and over-the-counter markets for equities, derivatives and other financial products.

For further detail visit:

[http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/SDIA%20speech_jun_%202007.pdf/\\$file/SDIA%20speech_jun_%202007.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/SDIA%20speech_jun_%202007.pdf/$file/SDIA%20speech_jun_%202007.pdf)

ACSI ESG ACTIVITIES UPDATE

In April 2007, ACSI released the results of its ESG survey of members. The purpose of the survey was twofold: to assist ACSI in identifying activities it can undertake to best support its members in integrating ESG issues into their investment decision-making; and to provide members with a snapshot of their ESG related activities to date. A summary of the report is available on our website, or please contact Meredith Squires msquires@acsi.org.au if you would like a copy of the full report.

The ACSI Committee of Management considered the report at its April meeting, and endorsed the list of top priority activities for ACSI to develop its activities on ESG issues. At this stage, the top priority activities for ACSI are:

1. Develop guidelines for trustees on evaluating ESG factors.
2. Work with other parts of the investment industry on ESG issues, including having a dialogue with asset consultants and investment managers about ESG issues.
3. Providing a status report covering specific environmental and social risks of companies (along the lines of ACSI's current Voting Alert Service).

4. Run educational seminars on understanding and managing ESG risks.
5. Provide research and information, including on how international pension funds handle ESG issues, and in particular how they are complying with the Principles for Responsible Investment.

We are already well underway with implementing these priority activities. In particular, we are developing a draft set of guidelines on ESG factors, which will include assistance for trustees to ask their fund managers about how they are dealing with ESG issues.

On 17 May 2007, ACSI held its annual roundtable with fund managers. The major topic of discussion was how fund managers are tackling ESG issues in investment decision-making. A similar topic was discussed at last year's forum, and it is clear that ACSI, ACSI members and the fund managers have focused much more on this issue over the past 12 months. We will continue ongoing dialogue with fund managers and ACSI members to assist with the developments in this area.

The ACSI 2007 conference will cover specific sessions on environmental and social issues in investing, and we will continue to focus on these areas throughout the year.

We will also be holding a seminar on 21 August 2007 (details to be circulated in July), which will discuss implementing the Principles for Responsible Investment, and how international funds are handling ESG issues.

With climate change and emissions trading now very important political and business issues, we will be looking at how companies in the ASX 100 are responding to the Carbon Disclosure Project. The Carbon Disclosure Project is co-ordinated in Australia by the Investor Group on Climate Change, and we will be working closely with the IGCC to monitor this rapidly developing area.

In March, Michael O'Sullivan and Meredith Squires were invited to attend a stakeholder dialogue day at BHP Billiton. The topics discussed ranged across a wide range of environmental and social issues facing BHP Billiton. Our participation was a valuable way of engaging with BHP Billiton, as well as increasing our understanding of the practical challenges faced by companies in dealing with these issues.

In May, Phil Spathis spoke at seminar held by the Monash University Corporate Law and Accountability Research Group on the topic "After the Parliamentary Joint Committee and CAMAC Reports: Future Directions for Corporate Social Responsibility in Australia". Phil's speech focussed on ACSI's submissions to the Parliamentary Joint Committee in 2005 and the ASX Corporate Governance Council earlier this year. Other speakers at the seminar included Charles Berger, Legal Adviser/Acting Director of Sustainability Strategies, Australian Conservation Foundation.

Please contact Meredith Squires msquires@acsi.org.au if you would like to know more about any of these activities.

REPORTING AND DISCLOSURE ON ESG ISSUES: AUSTRALIA AND THE US

On 25 April 2007, the Social Investment Research Analysts Network (SIRAN) and KLD Research & Analytics, Inc. announced the findings of their annual report on environmental and social performance reporting of US companies.

Now in its third year, the most recent SIRAN-KLD research study shows that nearly half (49) of US companies in the Standard & Poors (S&P) 100 Index are now disclosing information about their environmental, social, and governance (ESG) performance. More than a third of the companies (38) stated they have adopted an internationally recognized reporting standard, the Global

Reporting Initiative's "Sustainability Reporting Guidelines".

The full press release can be found at: http://www.kld.com/newsletter/archive/pres/s/pdf/KLD_SIRAN_Announce_Study_Findings.pdf

In Australia, in a speech on 1 June to the Australasian Investor Relations Association, Parliamentary Secretary to the Treasurer, Chris Pearce, recognised investors' increasing interest in social and environmental issues. In part, he said:

"As today's investors have become skilled users of technology, they are taking a more sophisticated approach to their investments. Investors now look beyond the bottom line. They want to know about the company's social and environmental activities as they recognise these activities are also important to a company's long-term prosperity.

... the greater focus on sustainability reporting means that business realises that it needs to take a broader focus to maximise profits. And it is this interest in long term profitability that investors need to understand and factor into their decision-making."

The full text of the speech can be found at: <http://parlsec.treasurer.gov.au/cjp/content/speeches/2007/009.asp>

GLOBAL RESPONSIBLE INVESTMENT REPORT RELEASED

On 24 April 2007, the United Nations Environment Program Finance Initiative (UNEP FI) and the United Kingdom Social Investment Forum (UKSIF) released an international report: "Responsible Investment in Focus: How leading pension funds are meeting the challenge". The report features case studies of the approach to responsible investment taken by 15 public pension funds internationally, and includes a profile of ACSI member fund, ARIA. ACSI sent an email to members about the report to members

shortly after its release, but further copies can be accessed at: <http://www.unepfi.org/>

CALL FOR REVIEW OF THE ASX WAIVER SYSTEM

Since April 2007 ACSI has been liaising with the ASX with regard to the ASX waiver system.

Specifically, ACSI has been arguing that waivers to shareholder rights as enshrined in Listing Rules administered by the ASX should be clearer, more transparent and disclosed on a more timely basis.

Our call for practical reforms to the ASX waiver system draws on findings made in a study, commissioned by ACSI and carried out by Institutional Shareholder Services (ISS) Australia. The study, reviewed every Listing Rule waiver granted by the ASX between June 2005 and December 2006. In the study, ISS formed the view that around 6% of waivers raised issues of concern about the erosion of shareholder rights.

The main finding of the study was that while the vast majority of waivers appeared sensible, there were some areas of emerging concern, notably waivers affecting voting rights, executive remuneration, related party transactions and pre-emptive rights.

The study reviewed nearly 1100 waivers over 18 months using the monthly register of waivers granted disclosed by the ASX on its website.

At a seminar in Sydney on 16 April 2007 when launching the study, ACSI called for a deeper and more timely disclosure of the reasons given for waivers.

For a copy of the study, contact: chris.panagiatopoulos@ifs.mail.net.au

We'll keep you informed about developments in this matter.

REVIEW OF SANCTIONS IN CORPORATE LAW

On 5 March 2007 Treasury released a consultation paper 'Review of Sanctions in Corporate Law'. As outlined in the Executive Summary of the Consultation document this consultation document was the recommendation of the Taskforce of Reducing Regulatory Burden which recommended a review of the Government review penalties for breaches of directors' duties to ensure that they strike an appropriate balance between promoting good behaviour and ensuring business is willing to take sensible commercial risks.

The review identifies two types of reform that could be considered to address concerns about sanctions that may be imposed under corporate law.

1. The first group of reforms would expand the types of sanctions imposed for breaches of corporate law i.e. whether there could be greater use of civil and administrative sanctions for certain types of offences. Specific issues are raised about strict liability criminal offences, imprisonment, procedures for civil penalty proceedings, and the magnitude of civil penalties.
2. The second group of reforms would clarify the circumstances in which a sanction could be imposed under corporate law

The closing date for submissions was 1 June 2007. The next steps will include the Treasury providing preliminary advice to the Treasurer, who will identify issues warranting further development and an advisory group will be established to assist in preparing a proposals paper, for consideration by the Treasurer in November 2007.

For further detail visit:

<http://www.treasury.gov.au/contentitem.asp?NavId=037&ContentID=1182>

INSIDER TRADING CONSULTATION

As reported in the treasury's insider trading - position and consultation paper released in march 2007 - 'insider trading' is the trading of securities or some wider set of financial products while in possession of information that is not generally available and would be likely to have a material effect on their price or value if it were. The prohibition against insider trading extends to procuring trading, or communicating that information where trading in the relevant financial products is likely to take place.

This consultation document was released somewhat belatedly following the The Corporations and Markets Advisory Committee (CAMAC) 'Insider Trading Report' of 20 November 2003. The Report followed a discussion paper issued in June 2001 by the then Companies and Securities Advisory Committee (CASAC) and a proposals paper issued in September 2002 by CAMAC on insider trading laws.

The Report made 38 recommendations on a broad range of issues. The Government proposed to accept most of the recommendations of the CAMAC report. However, there were a number of recommendations on which the Government sought further input from the market.

One of the recommendations accepted by the Government which ACSI actively supported in our paper 'Disclosure Implications for Executives Hedging of Long-Term Incentives' was that reporting requirements for director share trading should be strengthened. Specifically, ACSI supported CAMAC's proposals that section 205G of the Corporations Act should be amended as follows:

- the disclosure obligation should apply to all directors and senior executives including the chief executive officer. The disclosure obligation on these persons

should cover any direct trading and any trading through related parties;

- directors and senior executives of any entity that substantially manages the affairs of a listed entity should disclose any trading by them in the securities of that listed entity, and
- the disclosure period should be reduced from 14 days to 2 business days, except for changes arising under dividend (distribution) re-investment plans, where the period should remain at 14 days.

The closing date for submissions was 2nd June 2007.

For further detail visit:

<http://www.treasury.gov.au/contentitem.asp?NavId=037&ContentID=1235>

ASX CORPORATE GOVERNANCE COUNCIL GUIDELINES REVIEW

In Newsletter 29, we reported that ACSI had made a submission to the ASX Corporate Governance Council in the review of its corporate governance guidelines. Although the Council originally intended for its revised guidelines to be operational by 1 July 2007, the Council now intends to release the updated Principles so that they will become operational on 1 January 2008. We will keep you informed of progress.

INTERNATIONAL DEVELOPMENTS

US

Shareholders Want a Say!

The Securities and Exchange Commission (SEC) in the US has convened three forums to gather insights to prepare a new rule on shareholder rights and the federal proxy process that could be finalised before the 2008 proxy season. At the final roundtable on proxy voting, investor advocates urged the SEC to allow shareholders to file proxy

access proposals and not limit their rights to file non-binding proposals.¹

As reported by ISS it is not clear whether any rule will relate only to proxy access, but consideration may also include the role of state law in determining what proposal topics should be permitted, whether broker votes (see further below) should count in board elections, and the feasibility of creating secure "electronic shareholder forums."

The current requirements for filing shareholder proposals is that shareholders must hold a \$2,000 stake for at least one year. This threshold is higher in Britain, where proposals must be endorsed by a group of at least 100 shareholders or those who collectively own a 5 percent stake. We are all familiar with the Australian debate in this area.

Proxy access in some respect are more critical issue in the US for shareholders as they don't have the same opportunity to vote directors on or off as we do in Australia, so proxy access proposals is one way to deal with this shareholder right which is taken for granted in jurisdictions where it is the norm.

The issue of broker votes came to the fore recently at CVS/Caremark where it said that "broker non-votes" would not count towards the votes cast with respect to director elections. But as reported in Global Proxy Watch (GPW) 'Storm over director election threatens to undermine trust in US proxy system' Vol XI No 20 dated 18 May 2007, the analysis shows otherwise. Had these votes been excluded one of the board candidates would have lost with an estimated 57% voting against him.

GPW advised that this is the first case in the US where uninstructed broker votes have proven decisive at a company with majority-rule elections.

¹ ISS, Governance Weekly 'SEC Urged to Act With Caution', 1 June 2007



Australian Council of Super Investors Inc.

CORPORATE CITIZENSHIP NEWSLETTER

June 2007 : Issue No.30

In the US brokers can cast 'non-votes' if, 10 days before an AGM, clients have failed to issue their voting instructions. It is thought that brokers nearly always vote with management.

It anticipated that this example will lead to pressure from investors for the abolition of these types of votes being able to be cast.

The other area where US investors want a greater say is in relation to pay. A Bill was put forward in late April that would give shareholders at all public companies an annual advisory vote on the executive pay practices.

In the meantime investors rely on shareholder backed resolutions in order to get an annual shareholder advisory vote on executive pay.

Most recently such a proposal won 51.8 percent support at Motorola's annual meeting. The result marks the third time a "say on pay" proposal has received majority support this season, according to ISS data. A similar proposal at Verizon Communications won 50.2 percent of votes cast on May 3, and another resolution at Blockbuster on May 9 received 57 percent support, the highest result so far for "say on pay."²

CONTACT INFORMATION

Michael O'Sullivan
President
Level 28, 2 Lonsdale Street
MELBOURNE VIC 3000
Website: www.acsi.org.au
Tel: (03) 9923 7136
Fax: (03) 9657 4378
Mobile: 0418 996 359
Email: mosullivan@caresuper.com.au

Phillip Spathis
Executive Officer
Level 28, 2 Lonsdale Street
MELBOURNE VIC 3000
Website: www.acsi.org.au
Tel: (03) 9657 4375
Fax: (03) 9657 4378
Mobile: 0417 501 065
Email: pspathis@mail.ifs.net.au

This newsletter is correct to the best of our knowledge and belief at the time of going to press. It is, however, written as a general guide so it is recommended that specific professional advice is sought before any action is taken

² ISS, Governance Weekly 'Motorola: Third Majority for "Say on Pay', 1 June 2007