



MEMO

To: Board of Directors
From: Company Secretary
Subject: **DIRECT VOTING**

Shareholders who cannot attend – and ask questions/speak/vote – at a company's general meeting are able to appoint a proxy (or send an attorney or representative) to attend/vote on their behalf. This is a fundamental shareholder right, generally provided for in a company's constitution, and embodied in sections 249X~250D of the Corporations Act.

Direct Voting

Interpretation of the Act (without any legislative changes) now allows – as another alternative way that shareholders can cast a vote – direct voting. A direct voting system can only be introduced in conjunction with a company's existing proxy system detailed in their constitution.

Direct voting is a form of voting that allows shareholders to cast their vote, either online or by completing their personalised voting form, on resolutions of a meeting without having to attend the meeting in person and without needing to appoint a proxy to vote on their behalf.

Constitution

The only prerequisite to direct voting is that a company's constitution must specifically provide for it – rather than simply allow it by virtue of being silent on the matter or not prohibiting it.

A typical rule reads:

74. Direct voting

(a) The directors may determine that, at any general meeting of shareholders of the Company, a shareholder who is entitled to attend and vote at that meeting is entitled to a direct vote.

(b) A direct vote includes a vote delivered to the Company by post, facsimile transmission or other electronic means approved by the directors.

(c) The directors may prescribe rules to govern direct voting including rules specifying the form, method and timing of giving the direct vote in order for the vote to be valid.

So, if the constitution does not already allow direct voting it will have to be first amended (eg, by adding words such as above) – by the shareholders – so direct voting cannot actually start until the next following general meeting.



Process

Based on those words, the board should, at the time of approving a Notice of Meeting, also determine that direct voting apply for that general meeting, and set any governing rules. The board could also, presumably, resolve that direct voting apply to all future general meetings, without need to reconsider each time.

Those rules and an agreed process for receiving/recording direct votes would then be established with the share registry.

The option of direct voting would be included in the proxy form sent to all shareholders.

Note that when casting a direct vote there is no provision for abstaining – you either vote for or against, or do nothing – which is the same process as voting at a meeting. That is, you either put your hand up when asked who votes in favour.....or against.....but if you do not want to vote (ie, you are abstaining) then you do nothing.

This is contrast with a proxy where you can direct him to vote for or against, or abstain (ie, do nothing).

The share registry would tabulate direct votes and provide them at the same time as advising proxy reports for the meeting.

Advantages

Direct voting:

- gives shareholders full control over their votes – by using direct voting instead of appointing a proxy, shareholders will have certainty over their voting intentions
- shareholders are able to promptly and securely vote either by mail, fax or electronically without needing to attend the meeting – therefore, no matter where the shareholder is located, they are able to simply and conveniently cast their vote
- encourages more shareholders to vote at meetings – the convenience of direct voting ensures greater participation, enabling more effective engagement with shareholders.

Disadvantages

The main disadvantage of direct voting, I think, would probably be slightly higher costs, in administration, tabulating votes, etc.



Shareholder FAQ's

Typical 'frequently asked questions' on a company's website, to assist shareholders, could include:

Q. What is Direct Voting?

A. Direct Voting is a form of voting that allows shareholders to cast their vote, either online or by completing their personalised voting form, on resolutions of a meeting without having to attend the meeting in person and without needing to appoint a proxy to vote on their behalf.

Q. Can I still appoint a proxy?

A. Yes, you may still appoint a proxy by either marking the Chairman of the Meeting as your proxy, or entering the full name of the person you wish to appoint as your proxy on the voting form.

Q. How do I logon to lodge my voting instructions online?

A. On the company's home page at www.thecompany.com.au on the right hand side of the page select the blue button link called ANNUAL GENERAL MEETING. The AGM page will have a link to the Investor Vote site which will connect you to the online voting site.

Alternatively you can log on directly to the Investor Vote site at www.investorvote.com.au.

Q. How do I complete my voting form online?

A. After logging on to the Investor Vote site you will be requested in Step 1, to enter your Holder Identification Number (HIN) or your Shareholder Reference Number (SRN) and the postcode of your registered address. (Your SRN/HIN can be found in the top right hand side of your voting form).

Your HIN/SRN is 10 digits and has a prefix of an 'X' or an 'I' (this is not a 1 (one)). If you live outside Australia you should select the drop down box titled "Reside Outside Australia" and your country of residence as shown on your registered address.

You will also be asked if you would like to either cast your vote using your entire holding, split your vote or cast your vote directly. Select the option you wish to use and then the login button in the bottom right corner of the screen and follow the simple instructions to complete your voting intentions online.

Q. How many votes do I have?

A. For every ordinary fully paid share that you hold, you are entitled to one vote. Therefore if you hold one thousand shares, you are entitled to one thousand votes.

Q. How many proxies am I allowed to have?



- A.** You are entitled to appoint up to two persons (or corporations) as proxies to attend the meeting on your behalf and vote. After you have read the instructions page and select 'I Agree', you will be asked if you would like to appoint either the Chairman of the Meeting or another person or corporation.

If you wish to appoint a second proxy simply select this button and then appoint your second proxy. You will need to indicate the percentage of shares that each proxyholder is entitled to vote on your behalf.

This only applies if you choose not to split your vote on the first page. If you do split your vote, you can only appoint one proxy using the online system. If you would like to split your vote and appoint two proxies, you will need to lodge a paper proxy.

Your directions on how to vote will be applied to both your nominated proxies.

- Q.** Can I amend my direct vote or proxy vote once it has been submitted?
- A.** Yes, you can log back in and amend your vote as long as it reaches Computershare Investor Services Pty Limited 48 hours before the date and time of the AGM.
- Q.** What happens to my vote if I appoint a proxy and elect to leave it 'Open'?
- A.** By electing 'Open', your appointed proxy can decide which way to vote on the day of the meeting on your behalf.
- Q.** How do I know that I've voted online?
- A.** Once you have confirmed your voting instruction, you will be able to add an email address for a confirmation to be sent to you. There will also be a blue 'print' button that will enable you to print the page as confirmation.
- Q.** What would happen if I tried to cast a direct vote or appoint a proxy more than once?
- A.** The system will not allow you to lodge a second direct vote or appoint your proxy and direct them how to vote more than once. If you try, the system will ask if you would like to amend your existing instruction

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.