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Proper purpose test proposed for access to share registers

The Minister for Financial Services, Superannuation and Corporate Law, Chris Bowen, has announced proposals to require companies to grant access to their share registers only when the request is made for a proper purpose. Having campaigned for many years for reform of the law governing access to the register and introduced the concept of a proper purpose test for consideration, Chartered Secretaries Australia welcomes the government's announcement.

It has been common in recent years for major companies to receive requests from various types of operation (for example brokers, marketers, charities and self-interested parties seeking to purchase shares below market value). Under the current legislation, companies have had no option but to divulge the data when in receipt of such requests.

The government released a proposals paper, *Access to Registers and Related Issues*, which encapsulates reform proposals crafted in response to submissions made to last year's options paper *Access to Share Registers and the Regulation of Unsolicited Off-Market Offers*.

CSA made a submission on the latter paper in July 2009 and is very pleased to see that our recommendation of a proper purpose test has been picked up. CSA has always noted that the introduction of a proper purpose test will not interfere with existing shareholders' rights to use the register for the legitimate purposes of contacting other members in relation to the governance of the company.

The term 'proper purpose' will not be defined in legislation. Rather, the *Corporations Regulations 2001* will be amended to include a non-exhaustive list of improper purposes. The Australian Securities and Investments Commission will issue guidance on what purposes can be considered to be proper purposes.

The proper purpose test will not apply to genuine takeover offers or to applications to view a share register as opposed to receiving an electronic or print copy.

The proposals paper sets out a proposal to introduce a three-tier fee structure for obtaining access to registers, based on the number of members on the register.

Submissions on the proposals paper can be made until 24 February.

The proposals paper is available from the Treasury website, www.treasury.gov.au.