



Keeping Good Companies May, 2009

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PRESIDENT'S COMMENTARY

It was encouraging to note the strong level of support this proposal received. If you were unable to attend one of these meetings and wish to understand the proposal it is possible to view a podcast of the presentation on CSA's website at <http://www.CSAust.com/podcastvideo>.

Your support in the form of a proxy vote if you are unable to attend the AGM will be appreciated.

During these forums we also asked Members' views on changing the name of Chartered Secretaries Australia. While there was localised support for a change of name, it is clear that such a change will not gain the support of the majority of Members or the numbers to carry a special resolution. The board will discuss how the reasons supporting a change can be addressed in other ways at its midyear strategy weekend.

Australasian Reporting Awards

CSA continues its longstanding partnership with the Australasian Reporting Awards (ARA) through our Special Awards for Governance Reporting in the public and private sector. Our adjudication committees for each sector assess annual reports of entrant organisations against sector-specific criteria. Marking took place during February and March. The recommendations for awards were finalised by our committee of senior company secretaries that formed the judging panel.

The winners of CSA's Special Awards for Governance Reporting will be announced at the ARA's Awards Night, this year being held on 4 June at Crown Towers, Melbourne. The current Chairman of CSA's Victorian State Council, Mark Liccardio FCIS, is due to present our Award on the night, and Simon Pordage FCIS, who is also on our current Victorian State Council, will present on *transparency of governance reporting in a recession* at the ARA's Annual Seminar on Reporting at the same location the following day.

CSA appreciates the work of our adjudication committees, and indeed all who are involved in ensuring CSA's presence in the ARA continues to

practically demonstrate our Members' understanding and knowledge of governance.

Annual Business and Professions Study

The Annual Business and Professions Study, conducted by Beaton Consulting, provides a benchmark for associations' performance. The 2009 study was completed in October and November 2008 by web-based survey via an email invitation. It was particularly pleasing that CSA ranked joint first with five other associations for overall performance.

In the current economic climate, it is also interesting to note that for new CSA Members, the top three reasons for joining CSA in the past 12 months were career development and improving job prospects, supporting the development of knowledge and skills, and access to information that assists in their performance. A more detailed review of the results from the 2009 study can be found at p 198 of this issue.

Annual Corporate Update

The study revealed that the services most often accessed by CSA Members include seminars and conferences. The 2009 Annual Corporate Updates will be held in coming weeks.

The dates for each city are:

- Perth — 26 May
- Brisbane — 28 May
- Sydney — 2 June
- Melbourne — 3-4 June.

The program will cover topics as diverse as government stimulus measures, disclosure, board renewal and emissions trading. Contact CSA in your state to secure your place. ●

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Two issues will dominate this AGM season: company performance and executive remuneration. The global financial crisis has wreaked havoc with expectations of company performance so it will be interesting to see whether shareholders attend in greater numbers to interact with directors and question them on the company's accounts, the directors' report and the company's position and prospects.

The non-binding shareholder vote will be one guide to shareholder feeling. When this was introduced in 2005, a CSA survey noted that one-third of companies advised that they would review remuneration policies and practices if they received a 'no' vote above 35 per cent.

At the end of that first AGM season following the introduction of the non-binding shareholder vote on remuneration reports, 40 per cent of companies reported in a second CSA survey that an 'against' vote of ten per cent or less would make the directors take notice of shareholder concerns. A major shift in attitude had taken place.

Since 2005, 25 companies have seen a 'no' vote higher than 30 per cent. Of those, many, but not all, have listened to shareholder concern and revisited their remuneration structures. It is generally agreed that if a company is performing well and meeting dividend expectations, shareholders are unlikely to cast a non-binding vote against the remuneration report. But in a rocky market, with the government proposing a cap on termination payments and referring the issue of executive remuneration to the Productivity Commission, the non-binding shareholder vote will be a litmus test of whether another shift in attitude is taking place. The fact that this vote is used to express concern on issues other than remuneration adds to its role as the canary in the coalmine on whether shareholders are pushing for greater accountability from those they have entrusted to be the stewards of their investment.

As yet, it is not known how this AGM season will unfold. We're yet to see if there are substantial protest votes and, accordingly, yet to see what boards do in response.

Working with ASIC

For public listed companies, there is no requirement to advise ASIC of the name of a new auditor at the time of appointment, as they have relief whereby accounts lodged with ASX do not also need to be lodged with ASIC. No form exists to notify ASIC of the appointment, and the information set out in the accounts lodged with ASX may not be readily apparent to ASIC.

Meanwhile, directors of a public company have to appoint an auditor within one month of a public company being formed. Shareholders have to appoint the auditor at the first AGM. However, if the auditor appointed by the directors ceases to be the auditor and shareholders appoint a different auditor at the first AGM, there is no provision on ASIC Form 315 to accommodate notification of this occurrence. Importantly, in these situations, the auditor appointed by the directors of the public company did not resign.

CSA and ASIC have been assessing how best to ensure that the notification of the appointment of the auditor can be undertaken. ASIC is very interested in and receptive to the input from CSA on these issues. If there are other issues you feel could be fruitfully explored with ASIC, please let us know. Contact our Director, Policy at judith.fox@CSAust.com to discuss any areas that you believe could be causing confusion and rendering it difficult for companies to meet their compliance obligations.

Recent advocacy activity

- Modifications to ASIC Form 315 — submission to Treasury — 17.4.09
- ASIC form for notification of appointment of auditor — submission to ASIC — 17.4.09
- Facilitating equity capital raising — submission to ASIC — 26.3.09

Opinion piece

- All eyes on shareholder rights and wrongs — AFR — 17.4.09

If you would like to view any of the above, or previous advocacy activity, please visit the News & Advocacy section of our website at www.CSAust.com.



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It's the mini AGM season and the first chance to really assess whether declining shareholder numbers over the past decade was a result of a buoyant market, and to see to what extent shareholders exercise their voting rights and how the board responds.

During April, CSA Chief Executive Tim Sheehy and I visited all the state capitals to hold forums of Members to explain the rationale behind the proposal to introduce a new category of membership — called Certificated Member — that will be put to the CSA annual general meeting in Sydney on Friday, 8 May.



Nick Geddes fcis
President