



**The Quoted
Companies Alliance**

Department for Business, Innovation and Skills,
1 Victoria Street,
London, SW1H 0ET

Executive.pay@bis.gsi.gov.uk

30 April 2012

Dear Sirs,

BIS – Executive Pay: Shareholder Voting Rights Consultation

INTRODUCTION

The Quoted Companies Alliance is a not-for-profit membership organisation working for small and mid-cap quoted companies. Their individual market capitalisations tend to be below £500m.

The Quoted Companies Alliance is a founder member of European**Issuers**, which represents over 9,000 quoted companies in fourteen European countries.

The Quoted Companies Alliance Corporate Governance and Share Schemes Committees have examined your proposals and advised on this response. A list of committee members is at Appendix A.

RESPONSE

We welcome the opportunity to respond to this consultation as these proposals are a key concern to our members that are small and mid-cap listed companies, who will be disproportionately affected by the introduction of them. We have enclosed our responses to the questions in a separate document.

We believe that any proposals on executive remuneration must be proportionate. We do not believe an annual binding vote on remuneration policy is necessary for small and mid-cap listed companies and this requirement should not extend to them.

We believe that a robust dialogue on remuneration between institutional investors and small and mid-cap companies already exists. Furthermore, requiring a vote on remuneration policy for small and mid-cap listed companies would result in a significant increased cost, mainly due to the limited resources available to these companies.

Overall, we are strongly against the proposals outlined in this paper being applied to small and mid-cap listed companies. We do not believe there is a strong evidence base to suggest there is a problem with excessive remuneration and company and investor engagement on remuneration for small and mid-cap listed companies.

We have been contacted by the team at BIS leading this consultation to attend a meeting in due course and look forward to discussing our response in depth then.

Yours sincerely,

Tim Ward
Chief Executive

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THE QUOTED COMPANIES ALLIANCE CORPORATE GOVERNANCE COMMITTEE

Edward Beale	Western Selection Plc
Tim Bird	Field Fisher Waterhouse
Dan Burns	McguireWoods
Anthony Carey	Mazars LLP
Richard Chin	Oriel Securities Limited
Louis Cooper	Crowe Clark Whitehill
Madeleine Cordes	Capita Registrars Ltd
Edward Craft	Wedlake Bell LLP
Kate Elsdon	PricewaterhouseCoopers LLP
Nicola Evans	Hogan Lovells International LLP
David Fuller	CLS Holdings PLC
Clive Garston	DAC Beachcroft LLP
Tim Goodman	Hermes Equity Ownership Services
Nick Graves	Burges Salmon
David Isherwood	BDO LLP
Kate Jalbert	The Quoted Companies Alliance
Colin Jones	UHY Hacker Young
Dalia Joseph	Oriel Securities Limited
Derek Marsh	China Food Company PLC
Claire Noyce	Hybridan LLP
James Parkes	CMS Cameron McKenna LLP
Anita Skipper	Aviva Investors
Julie Stanbrook	Hogan Lovells International LLP
Jacques Sultan	The Quoted Companies Alliance
Eugenia Unanyants-Jackson	F&C Investments
Melanie Wadsworth	Faegre Baker Daniels LLP
Tim Ward	The Quoted Companies Alliance
Cliff Weight	MM & K Limited

THE QUOTED COMPANIES ALLIANCE SHARE SCHEMES COMMITTEE

Barbara Allen	Stephenson Harwood
Fiona Bell	Memery Crystal LLP
Martin Benson	Baker Tilly
Danny Blum	Eversheds LLP
Anika Chandra	Stephenson Harwood
Stephen Chater	Postlethwaite & Co
Sara Cohen	Lewis Silkin
Christopher Connors	Charles Russell LLP
Karen Cooper	Osborne Clarke
Jared Cranney	Interior Services Group plc
John Daughtrey	Equiniti
Michael Deeks	Olswang
Matthew Findley	Hewitt New Bridge Street
Philip Fisher	PKF (UK) LLP
David Fuller	CLS Holdings PLC
Stephen Goldstraw	Manches
Andy Goodman	BDO LLP
Paula Hargaden	Burges Salmon
Kate Jalbert	The Quoted Companies Alliance
Colin Kendon	Bird & Bird LLP
Michael Landon	MM & K Limited
Nigel Mills	MM & K Limited
Peter Mossop	Sanne Group
Robert Postlethwaite	Postlethwaite & Co
Colum Spillane	Sanne Group
Amanda Stapleton	Mazars LLP
Nicholas Stretch	CMS Cameron McKenna LLP
Jacques Sultan	The Quoted Companies Alliance
Paul Twist	KPMG LLP
Nick Wallis	Smith & Williamson Limited
Tim Ward	The Quoted Companies Alliance

THE QUOTED COMPANIES ALLIANCE (QCA)

A not-for-profit organisation funded by its membership, the Quoted Companies Alliance represents the interests of small and mid-cap quoted companies, their advisors and investors. It was founded in 1992, originally known as CISCO.

The Quoted Companies Alliance is governed by an elected Executive Committee, and undertakes its work through a number of highly focussed, multi-disciplinary committees and working groups of members who concentrate on specific areas of concern, in particular:

- taxation
- legislation affecting small and mid-cap quoted companies
- corporate governance
- employee share schemes
- trading, settlement and custody of shares
- structure and regulation of stock markets for small and mid-cap quoted companies;
- political liaison – briefing and influencing Westminster and Whitehall, the City and Brussels
- accounting standards proposals from various standard-setters

The Quoted Companies Alliance is a founder member of EuropeanIssuers, which represents quoted companies in fourteen European countries.

Quoted Companies Alliance's Aims and Objectives

The Quoted Companies Alliance works for small and mid-cap quoted companies in the United Kingdom and Europe to promote and maintain vibrant, healthy and liquid capital markets. Its principal objectives are:

Lobbying the Government, Brussels and other regulators to reduce the costing and time consuming burden of regulation, which falls disproportionately on smaller quoted companies

Promoting the smaller quoted company sector and taking steps to increase investor interest and improve shareholder liquidity for companies in it.

Educating companies in the sector about best practice in areas such as corporate governance and investor relations.

Providing a forum for small and mid-cap quoted company directors to network and discuss solutions to topical issues with their peer group, sector professionals and influential City figures.

Small and mid-cap quoted companies' contribute considerably to the UK economy:

- There are approximately 2,000 small and mid-cap quoted companies
- They represent around 85% of all quoted companies in the UK
- They employ approximately 1 million people, representing around 4% of total private sector employment
- Every 5% growth in the small and mid-cap quoted company sector could reduce UK unemployment by a further 50,000
- They generate:
 - corporation tax payable of £560 million per annum
 - income tax paid of £3 billion per annum
 - social security paid (employers' NIC) of £3 billion per annum
 - employees' national insurance contribution paid of £2 billion per annum

The tax figures exclude business rates, VAT and other indirect taxes.

For more information contact:

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Executive Pay: Shareholder Voting Rights Consultation Response Form

The closing date for this consultation is 27 April 2012

Please return completed forms to:

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Executive Pay Consultation
Department of Business, Innovation and Skills
1 Victoria Street
SW1H 0ET
020 7215 3930
executive.pay@bis.gsi.gov.uk

Confidentiality & Data Protection

In the interests of transparency, the Department may choose to publish the responses to this consultation. **Please state clearly if you wish your response to remain confidential.**

Please note also that information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Name of respondent

The Quoted Companies Alliance

Please state whether you are responding as an individual or representing the views of an organisation by ticking the appropriate box below:

<input checked="" type="checkbox"/>	Business or business representative organisation
<input type="checkbox"/>	Investor or investor representative organisation
<input type="checkbox"/>	Government or regulator
<input type="checkbox"/>	Lawyer
<input type="checkbox"/>	Remuneration consultant
<input type="checkbox"/>	Other professional advisor
<input type="checkbox"/>	Trade union or employee organisation
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Other (please describe)

Question 1: The Government proposes to require an annual binding vote on remuneration policy. What are the costs and benefits of this approach?

We do not believe an annual binding vote on remuneration policy is necessary for small and mid-cap listed companies and do not believe that this requirement should extend to them.

We believe that a robust dialogue on remuneration between institutional investors and small and mid-cap quoted companies already exists. Institutional investors tend to hold large stakes in small and mid-cap listed companies and therefore it is important for both companies and investors to enter into a dialogue on remuneration to ensure that their interests are aligned.

Requiring a vote on remuneration policy for small and mid-cap listed companies would result in a significant increased cost, mainly due to the limited resources available to these companies and the loss in flexibility in developing their remuneration policy. For example, all directors' service contracts will need to be rewritten, as it will no longer be possible for a director to have specific variable pay. More importantly, if a director is recruited part way through the year, his remuneration package will have to be consistent with the remuneration policy approved at the AGM, which may not necessarily be appropriate for that new recruit. Therefore, it could have an adverse effect on board recruitment.

Additionally, there would be disproportionate costs to a small and mid-cap listed company if a vote on remuneration policy were lost. There would be costs associated with calling any additional meetings, management time and effort involved in getting agreement, and the possibility of a director in question being disincentivised until a remuneration package is agreed.

Finally, we would note that shareholders already have a power with the annual re-election of directors to voice their dissatisfaction on items such as remuneration. This has only been in effect in the UK Corporate Governance Code since June 2010 and we would stress the need for this to be embedded and tested before introducing additional tools for shareholders to tackle this issue.

We believe that any proposals on executive remuneration must be proportionate. As stated in our previous response to the BIS consultation, this proposal seems to be targeted at the activities and behaviour that has occurred in some of the largest companies in the UK, particularly in the financial sector. We note that paragraphs 46-51 of the consultation paper (and throughout the rest of the paper) only cite statistics on FTSE100 and FTSE250 companies.

We are unaware of such a pronounced problem with remuneration and engagement with investors in the small and mid-cap listed sector and so we believe that these companies should be exempt from any proposals to enhance shareholder voting on these issues. We note that the UK Corporate Governance Code already contains such exemptions for companies outside the FTSE 350, such as the requirement for small and mid-cap listed companies to only have two independent non-executive directors.

Question 2: In the event that a company fails the binding vote on remuneration policy, the Government proposes that it maintains its existing policy or returns to shareholders with amended proposals within 90 days. What are the costs and benefits of this approach?

As stated in our response to Question 1, we do not believe an annual binding vote on remuneration policy is necessary for small and mid-cap listed companies and do not believe that this requirement should extend to them.

While this proposal aims to address the need for engagement between investors and companies to come to an agreed conclusion, we are concerned that it leaves little flexibility for doing so and the time constraints may not produce the optimal solution. Small and mid-cap listed companies would face disproportionate costs associated with having to prepare a revised policy (with very little resource available to them) and in a strict 90 day timeframe, which is not long enough to speak to shareholders, revise policy and send out the notice of a new meeting.

Question 3: The Government proposes that directors' service contracts and other arrangements should, if necessary, be amended to take account of the new requirement to seek shareholder approval of remuneration policy. What are the costs and benefits of this approach?

We believe that it is impractical and unproductive to require companies to agree new service contracts with directors, mainly due to the aggregate increased cost this would bring to companies, especially small and mid-cap listed companies that have much more limited internal resources than FTSE250 companies.

If the final legislative proposal is to have a binding effect on bilateral contracts, this would be better achieved by including within the relevant legislative instrument a provision to state that "any provision of a contract that would have the effect of remunerating a director under a service contract in place on [the date the relevant legislation comes into effect] at a level in excess of that determined by an approved remuneration policy is void". This would spur companies to put in place approved remuneration policies before the relevant deadline.

Question 4: The Government proposes that remuneration packages offered to in-year recruits should be confined by the limits and structures set out in the agreed remuneration policy. What are the costs and benefits of this approach?

As stated in our response to Question 1, we do not agree with the proposal that remuneration packages for new recruits should be confined by the remuneration policy agreed at the AGM. This could result in inappropriate remuneration packages for new recruits and does not necessarily encourage the development of a remuneration policy that is able to respond to changing circumstances in company.

More importantly this does not support the importance of companies entering into an on-going dialogue with their investors on remuneration. Instead it suggests that the only time companies are able to visit the issue of remuneration with investors is around the AGM and the binding vote.

Question 5: The Government proposes that the report on future remuneration policy should provide more details on how approved LTIPs will operate for directors in that particular year. Do you agree with this approach?

While we support the aim of improving narrative around LTIPS, we are concerned that there may be practical issues with this proposal. To outline specific awards to be granted in the forthcoming year may be impractical for a company, if the final decisions have not been made before an annual report goes to print. The other concern is that too much information will be released concerning the company's strategy if details of the way in which awards are calculated or the basis on which performance conditions are determined are included in reports. This could be advantageous to competitors, who might not be subject to the same reporting requirements. So it is important to strike the right balance of information reported on LTIPS in the future remuneration policy.

More importantly, we strongly agree with paragraph 85 in the paper and emphasise the importance of the Government and the UKLA working together on shareholder voting on remuneration to ensure that companies are not subjected to additional and over-lapping reporting requirements. It seems as this proposal may be creating a

confusing and duplicate requirement on companies, since shareholders already vote on approving LTIPs.

Question 6: The Government proposes to increase the level of shareholder support that should be required to pass the vote on future remuneration policy. Do you agree with this approach and if so, what would be an appropriate threshold?

As stated in our response to Question 1, we do not believe an annual binding vote on remuneration policy is necessary for small and mid-cap listed companies and do not believe that this requirement should extend to them.

We strongly disagree with the proposal to increase the level of shareholder support to pass a binding vote on future remuneration policy, as it will result in a significant increased cost for small and mid-cap listed companies.

The higher threshold could lead to company secretaries having to whip up votes from investors each year well ahead of the AGM, which will take up significant resources – and may not encourage effective engagement between companies and investors on remuneration policy due to too much focus on the result of the vote.

More importantly, we believe that there has not been a compelling evidence base presented that shareholders are calling for a super-majority approval of remuneration policy.

Question 7: The Government proposes to require companies to explain how the results of the advisory vote have been taken into account the following year and to issue a statement to the market sooner than this where there is a significant level of shareholder dissent. What are the costs and benefits of this approach?

We do not support this proposal, as the Government intends to require companies to explain the votes in the following year's annual report. Also, S341 of Companies Act 2006 already requires quoted companies to post poll results on their websites.

As such, we do not see the added value nor believe that there is evidence to suggest that it is also necessary to require companies, especially small and mid-cap listed companies, to issue a statement within 30 days of an advisory that does not received 75% approval.

Given that the announcement will be required to be issued very soon after the vote, it will most likely only provide boilerplate information. More importantly, we are not sure how it will facilitate shareholder engagement – it is best practice for companies to engage with their shareholders about a failed advisory vote as soon as possible and up to shareholders to put pressure on companies to do so. We do not believe that such an announcement should be legislated.

Question 8: The Government proposes to give shareholder a binding vote on exit payments of more than one year's base salary. Do you agree with this

approach or would an alternative threshold for requiring a shareholder vote be more appropriate?

Again as reflected in our response to Question 1, we believe that small and mid-cap listed companies should be excluded from the proposals for binding votes, including this one on exit payments, as we do not believe there is a strong evidence base to support the need for them.

Question 9: The Government recognises that the circumstances under which a director leaves their post are complex and diverse and so invites feedback on the appropriate scope and breadth of the proposed legislative measures.

Please refer back to our response to Question 8.

Question 10: The Government proposes that directors' service contracts and other arrangements should be amended to take account of the new requirement to seek shareholder approval for exit payments over one year's base salary. What are the costs and benefits of this approach?

As stated in our response to Question 1 and 8, we believe that small and mid-cap listed companies should be excluded from the proposals for binding votes, including this one on exit payments, as we do not believe there is a strong evidence base to support the need for them.

We do not believe that it is appropriate for the Government to legislate the necessity for companies to change their service contracts – it should be up to companies how they handle this issue. As stated in our response to Question 1, it is likely that companies will make changes to directors' service contracts as a result of the Government's proposals – and that this will be a significant cost, especially for small and mid-cap listed companies.

Question 11: The Government notes that a small number of directors could be entitled to generous pension enhancements if their contract is terminated early. It proposes not to legislate to override these rights, owing to the rarity of such arrangements and the complexity of legislation that would be required. Do you agree with this approach?

We agree with this approach.

Question 12: The Government proposes to leave unchanged the existing requirement in company law (section 188 of the Companies Act) to get members' approval for notice periods of more than two years. Do you agree with this approach?

We agree with this approach.