MEMO

To: Board of Directors

From: Company Secretary

Subject: **CHANGE OF FINANCIAL YEAR-END**

When a company is formed Section 323D of the Corporations Act requires the first financial year of a company to start on the date of its registration. Subject to the first financial year-end (F/Y) being no more than 18 months, the directors can determine the period of the company's first (F/Y), with subsequent F/Ys each ending 12 months thereafter (subject to up to 7 day's grace either side for convenience: eg, to the end of a complete week).

Usually a company will select a 30 June F/Y to simplify the process of lodging its Tax Return which generally must also be lodged as at 30 June.

For various reasons, however, a company may choose some other F/Y date – for example to synchronise subsidiaries for consolidation purposes or to coincide with an overseas parent/group. An extended F/Y cannot be longer than 18 months.

Also, sec. 323D(3) requires synchronisation within 12 months of a relevant situation (eg, becoming part of a consolidated group) occurring.

Where a company desires to change its F/Y date other than as allowed/required under sec. 323D it must apply to ASIC for individual consideration pursuant to sec. 340.

ASIC Regulatory Guides 43, 51 & 68 provide further guidance on aspects of lodging applications.

Such applications must include an explanation as to why retaining an existing F/Y would either/or:

- make the company's financial reports misleading
- be inappropriate in the circumstances (eg, because of the business impact of seasonal, very unusual or catastrophic factors)
- impose unreasonable burdens.

In summary, I believe it would be necessary to mount a very convincing argument before ASIC would agree to change a F/Y (other than as catered for under sec. 323D) even though, in practice, for most companies such a change could/would have no adverse impact on creditors, members and other stakeholders.

Effect on Annual General Meeting

For a public company, a change of F/Y will affect the timing of the company's AGM. A public company must hold an AGM within 18 months after its registration. Following AGM's must be held at least once in each calendar year and within 5 months after the end of each financial year – sec. 250N.

If these timing requirements cannot be met due to a change in the company's F/Y (or, indeed, for any other reason), the company must apply to ASIC for an extension of time to hold its AGM (sec. 250P & RG44). Application using Form 2501 must be made before the latest possible date on which the AGM would have been due to be held.