



## MEMO

To: Board of Directors  
From: Company Secretary  
Subject: **SHAREHOLDER CHANGES – PUBLIC COMPANIES**

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The requirements for public companies to provide individual shareholder details/changes to ASIC are different to/not as stringent as those applying to proprietary limited (Pty Ltd) companies.

All companies must record any changes to the company's shareholders (new issues, transfers, address changes, etc) in the register (Register of Members/Shareholders, or Share Register) – pursuant to Section 169 of the Corporations Act – and Pty Ltd companies must also lodge certain details with ASIC.

### **Pty Ltd Companies**

Pty Ltd companies are required under Sec.178A~178D to lodge any changes to the 'top 20' shareholders with ASIC. Such changes must be lodged with ASIC within 28 days using Form 484 (Section C) "Change to Company Details".

Details of any new shareholder on allotment or transfer of shares must also be entered into the register pursuant to Sec.1071D and, if a Pty Ltd company and the change affects the 'top 20' shareholders, be lodged with ASIC on Form 484.

Note, any contravention of Sec.178A is an *offence of strict liability* [ref. Sec.178A(2)], which means it is not necessary for ASIC to prove intention, knowledge, recklessness or negligence (see Section 6.1 of the Criminal Code). However, a "took all reasonable steps to comply" defence may be available (see Section 13.4 of Criminal Code).

### **Public Companies**

Public companies, however, are only required to advise ASIC of changes to share structure, including the issue or cancellation of shares, share conversion or division. But public companies are not able to advise ASIC of changes relating to individual shareholders although, of course, the share register must still be updated for all shareholders' changes.

In fact, a public company is actually unable to advise ASIC of changes to shareholder (member) details – there is no facility to do this with electronic lodgements – and if you try and do it manually ASIC will simply return the Form with a letter stating that they do not record the 'top 20' shareholders because this information is available to the general public who may also freely inspect the Share Register – ref. Sec 173.



Another, rather obvious I think, reason is that for a stock exchange listed public company their 'top 20' is constantly changing, so it would just be impracticable to lodge and keep changing ASIC details.

## **Share Register**

The register of members/shareholders must be held at the company's registered office or principal place of business (or other place approved by ASIC) – Sec.172. It contains the name and address of each shareholder (member), share class, the number of shares held, the amount paid and unpaid on the shares, and whether or not the shares are held beneficially or non-beneficially.

Any changes to shareholder details advised to the company, or undertaken by the company following some corporate action (eg, share split or consolidation) must be recorded in the register. Therefore, a shareholder/member should inform the company of any change in address so that the company can update its register of shareholders (members).

Most listed companies use an external professional share registry to manage their Share Register.

Under Sec.173 anyone has a right to inspect and/or obtain a copy of a company's share register (register of shareholders or members), provided they do not use the information in a manner or for uses prohibited by law (see Sec.177). A shareholder may inspect the register free of charge, however the company may charge other people to inspect the register. A company must provide a copy of the register within 7 days if a person asks for a copy. The fee for supplying a copy or inspecting the register by a non-member is prescribed by law.

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