

# ICSA Guidance on Proxies & Corporate Representatives at General Meetings

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## 1. Introduction

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Changes to company law in the area of both corporate representation and proxy appointment, which took effect from 1 October 2007, have necessitated a fresh look at how corporate/institutional shareholders can best be represented at general meetings of the companies in which they invest. As a 'corporation' has no physical presence it cannot attend in person and must therefore appoint someone to represent it. Company law still provides for two alternative methods by which this can be done; the appointment of proxies and the appointment of corporate representatives. However, there has been some debate around the legal effect of the new provisions in relation to the two alternatives.

The object of this guidance note is to attempt to reassess the practical position in the light of the new legal environment from 1 October 2007 when Part 13 (Resolutions and meetings) of the Companies Act 2006 (the 'Act') came into force. **It is important to remember that the Act introduced changes to the law in this area and that therefore any views expressed have not been tested by the courts.** In addition, it is essential to check the provisions of a particular company's articles to confirm the extent to which any general rules set out below are applicable (although in some cases, as described below, the statutory provisions will override any contrary provisions in a company's articles).

**A key issue which this note seeks to address is the uncertainty around the operation of multiple corporate representatives (section 4). Because of the complexities in this area, the preferred route for corporate shareholders to attend, speak and vote at general meetings is by appointing one or more proxies or to appoint a single corporate representative. The legal position then is clear. In those (exceptional) circumstances where this is not achieved, an alternative method outlined in paragraph 4.8 can be adopted. This has been devised as an interim solution until the law can be amended to clarify the position.**

## 2. Relevant provisions of the Act

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The following provisions of the Act came into force on 1 October 2007:

### **Rights to appoint proxies**

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- s324 (1) A member of a company is entitled to appoint another person as his proxy to exercise all or any of his rights to attend and to speak and vote at a meeting of the company.
- (2) In the case of a company having a share capital, a member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him, or (as the case may be) to a different £10, or multiple of £10, of stock held by him.

### **Notice required of appointment of proxy etc**

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- s327 (1) This section applies to:
- (a) the appointment of a proxy, and
  - (b) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy.

- (2) Any provision of the company's articles is void in so far as it would have the effect of requiring any such appointment or document to be received by the company or another person earlier than the following time:
  - (a) in the case of a meeting or adjourned meeting, 48 hours before the time for holding the meeting or adjourned meeting;
  - (b) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll;
  - (c) THIS PARAGRAPH IS NOT BEING COMMENCED AND CAN BE IGNORED.
- (3) In calculating the periods mentioned in subsection (2) no account shall be taken of any part of a day that is not a working day.

### **Representation of corporations at meetings**

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- s323 (1) If a corporation (whether or not a company within the meaning of this Act) is a member of a company, it may by resolution of its directors or other governing body authorise a person or persons to act as its representative or representatives at any meeting of the company.
- (2) Where the corporation authorises only one person, he is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual member of the company.
  - (3) Where the corporation authorises more than one person, any one of them is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual member of the company.
  - (4) Where the corporation authorises more than one person and more than one of them purport to exercise a power under subsection (3):
    - (a) if they purport to exercise the power in the same way, the power is treated as exercised in that way,
    - (b) if they do not purport to exercise the power in the same way, the power is treated as not exercised.

### **Exercise of rights where shares held on behalf of others: exercise in different ways**

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- s152 (1) Where a member holds shares in a company on behalf of more than one person:
  - (a) rights attached to the shares, and
  - (b) rights under any enactment exercisable by virtue of holding the shares, need not all be exercised, and if exercised, need not all be exercised in the same way.
- (2) A member who exercises such rights but does not exercise all his rights, must inform the company to what extent he is exercising the rights.
  - (3) A member who exercises such rights in different ways must inform the company of the ways in which he is exercising them and to what extent they are exercised in each way.
  - (4) If a member exercises such rights without informing the company:
    - (a) that he is not exercising all his rights, or
    - (b) that he is exercising his rights in different ways, the company is entitled to assume that he is exercising all his rights and is exercising them in the same way.

In the discussion that follows, it is also worth noting s322 on voting on a poll, s284(2)(b) and (4) and s285.

### **Voting on a poll**

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- s322 On a poll taken at a general meeting of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

**Votes: general rules**

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- s284 (2) On a vote on a resolution on a show of hands at a meeting:
- (a) every member present in person has one vote, and
  - (b) every proxy present who has been duly appointed by a member entitled to vote on the resolution has one vote.
- ...
- (4) The provisions of this section have effect subject to any provision of the company's articles.

**Votes: specific requirements**

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- s285 (1) Where a member entitled to vote on a resolution has appointed one proxy only, and the company's articles provide that the proxy has fewer votes in a vote on a resolution on a show of hands taken at a meeting than the member would have if he were present in person:
- (a) the provision about how many votes the proxy has on a show of hands is void, and
  - (b) the proxy has the same number of votes on a show of hands as the member who appointed him would have if he were present at the meeting.
- (2) Where a member entitled to vote on a resolution has appointed more than one proxy, subsection (1) applies as if the references to the proxy were references to the proxies taken together.

**3. Proxies**

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**3.1 New rights for proxies**

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**Proxy rights have now been extended by the Act such that members of both public and private companies have the right to appoint more than one proxy and all appointed proxies can attend, speak and vote at general meetings, on a show of hands (but see paragraph 3.2) as well as on a poll.**

Members of a public or private company can therefore appoint multiple proxies (as long as the appointments are in respect of a different share or shares held by the members).

These rights:

- are not subject to the articles or the chairman's discretion, except where explicitly stated in the Act;
- may be extended by the articles (s331); and
- cannot be reduced by the articles except where the Act expressly allows.

The rights of proxies set out in s324 of the Act must be expressly stated in every notice of meeting (s325).

**3.2 Multiple votes on a show of hands**

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**The default position for a vote taken on a show of hands is that each appointed proxy will have one vote (s284(2)).**

This number can be reduced by the articles, although not to a position below the number of votes that the member would have if he attended in person (s285(2)). It appears that the articles could therefore state that where a registered shareholder (whether an individual or a corporation) appoints multiple proxies, they are only to have one vote on a show of

hands between them. However, making such a reduction to the proxies' voting rights in the company's articles is **not recommended** as it could create difficulties in practice both in terms of the multiple proxies agreeing which one is to vote on a show of hands and for the company controlling and counting the votes at the meeting. Therefore, if a company's articles already contain such a provision reducing voting rights, advice should be taken about whether it should be removed.

In the absence of anything to the contrary in the articles, so long as the number of proxies relating to a single registered holding is not more than the number of shares held and the proxies are appointed in respect of different shares, the votes of multiple proxies on a show of hands are legitimate. However, should the chairman consider that the number of proxies appointed by a single registered shareholder is affecting the outcome of a show of hands vote, then, as a matter of law,<sup>1</sup> he should call a poll.

Chairmen should be briefed before general meetings on this new multiple proxy regime and its impact on voting on a show of hands. Clearly the opportunity for a single registered shareholder to appoint multiple proxies who can now all speak and vote on a show of hands brings with it a risk of disruption from activists at general meetings and companies that have not already moved to automatic poll voting may feel that this is an appropriate time to do so.

### **3.3 Right to demand a poll**

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**S329 provides that the appointment of a proxy includes the right to demand or join in demanding a poll.** S329(2) describes how multiple proxies for the same member are to be treated for this purpose – each counts as one member for the number test but the percentage of share capital test is considered by reference to the number of shares over which the proxy has been appointed.

### **3.4 Proxies appointed by more than one member**

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**Where the same person has been appointed proxy by a number of members, that person only has one vote on a show of hands (and not one vote for each member he represents) (s284(2)).** Under s284(4) this position is (except as provided in s285) subject to any contrary provision in the articles but as in the case of multiple proxies described in paragraph 3.2 above, it is not recommended that articles should include any contrary provision because of the difficulties of operating this in practice.

In these circumstances the question arises as to how such a proxy should vote on a show of hands if those appointing him have given different voting instructions. Should the proxy vote 'for'; 'against'; 'for' and 'against'; or not at all? The answer is not clear. There is no legal authority on what the consequences would be if the proxy votes against the instructions of some of those appointing him; in the case of the chairman of the meeting (who may be proxy to thousands of shareholders) we suggest that he uses his proxies in the way he always has, to make a judgement as to whether a poll should be called.

### **3.5 Proxy as chairman**

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**A proxy may chair a general meeting.** Subject to any provisions in the articles about who may chair a general meeting, s328 of the Act provides a default rule that a proxy may be elected to chair a general meeting by resolution of the company passed at the meeting. No notice is required for this type of procedural resolution. This will be overridden by reg 42 of Table A (and similar articles) which provides that the Chairman of the board (or in his absence, another director chosen by the directors) shall chair general meetings.

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<sup>1</sup> Second Consolidated Trust Ltd v Ceylon Amalgamated Tea & Rubber Estates Ltd [1943] 2 All ER 567

### 3.6 Form of proxy appointment

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**Where hard copies are used, a proxy is normally appointed using the form issued by the company.** The company's articles will often contain wording to the effect that the appointment be 'in a form commonly used or as agreed by the directors'. Depending on how the articles are worded, a properly executed letter of instruction signed by the shareholder might also be acceptable. This would still have to be received by the proxy appointment deadline specified in the company's articles. A proforma proxy form complying with the new provisions in the Act is included in Appendix A.

Most listed companies now also permit proxies to be appointed electronically. The notice of meeting and proxy form will in those cases need to refer to this.

### 3.7 Proxy appointment deadline – general

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**S327(3) of the Act allows articles of association to provide that weekends and bank holidays can be ignored when determining the 48 hour deadline for the receipt of proxy appointments. This means that, for a meeting at 11am on a Monday the proxy appointment deadline under the articles may be set at or after (but not before) 11am on the previous Thursday.**

It remains a legal requirement that the deadline specified in the articles cannot be for a time earlier (i.e. more) than 48 hours before the meeting but what is now possible is to ignore non-working days for this purpose. However, the articles may still provide for proxies to be delivered later than this (i.e. a flat period of 48 hours or a period of less than 48 hours before the meeting).

The Act does not make exclusion of non-working days automatic. Companies will need to amend their articles if they wish to use this provision.

Companies need to balance the practical advantages of setting an earlier deadline (and avoiding the issues which can arise with the deadline for proxies being at the weekend) against the objective of receiving as many proxy appointments as possible. This latter point may be increasingly important in light of the issues surrounding the use of multiple corporate representatives, outlined in section 4 below.

### 3.8 Proxy appointment deadline for delayed polls

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**If a poll is to be taken more than 48 hours after it is demanded, s327(2)(b) states that the earliest proxy appointment deadline which can be set in the articles is 24 hours before the time appointed for taking the poll.** S327(2)(c) (which provided for the earliest deadline in the case of a poll taken less than 48 hours after it is demanded) is not being commenced as its operation is considered impracticable because of overlap with s327(2) (a). Many companies already include a provision in their articles concerning the deadline for proxies to be received on the calling of a delayed poll. A company's articles may give a proxy appointment deadline later than that specified in the Act, for polls taken more than 48 hours after the poll demand (because, as mentioned above, the Act only specifies the earliest deadline that is allowed). A company's articles can also include a provision dealing with delayed polls called for less than 48 hours after the demand. For example the articles could provide for a 24 hour deadline for receipt of proxies for use on any poll to be taken more than 24 hours after it is demanded.

### 3.9 Multiple proxies – number of shares

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**The proforma proxy form in Appendix A provides that unless the shareholder fills in the box on the proxy form, stating how many shares in respect of which the proxy is authorised, then the proxy is authorised for the whole of the member’s shareholding (or in the case of a member with designated accounts, the whole of the holding in the designated account).**

If multiple proxies are to be appointed then a separate proxy form must be filled in for each proxy. A blank form may be photocopied for this purpose. Proxy forms should refer to the ability to appoint multiple proxies because this is expressly provided for in the Act.

The pro forma proxy form in Appendix A is based on the above assumptions.

Proxies may be appointed electronically as well as by completion of a hard copy proxy form. These methods should allow for the appointment of multiple proxies but details should be checked in advance with the relevant provider.

Shareholders should note that it will not normally be possible for a company (depending on the provisions in its articles) to accept additional voting instructions over further shares in relation to a previously appointed proxy – in all cases use should be made of the multiple proxy route or such instructions should take the form of a complete replacement of a previously lodged instruction, as no aggregation of multiple voting instructions can, or will, be carried out by the company or its registrars. Note that a replacement voting instruction to one proxy should make it clear that it refers to that one proxy and that all the other appointments stand.

Another issue arises if a shareholder appoints a number of proxies, each for a specified number of shares, the sum of which exceeds the total number of shares registered to that shareholder. In these circumstances the registrar/company may be unable to determine which of the appointments is invalid and may have to reject the proxy forms on the basis that the requirements of s324(2) (or the company’s articles if applicable) are not satisfied. However, best practice would be for the company to take steps to try to clarify the situation with the shareholder concerned should time permit. If this is not possible, then the company will need to determine, taking into account the provisions in its articles, which of the proxies should be treated as valid and whether the last received should be treated as replacing any lodged previously or whether a different treatment should be applied. Companies may wish to consider leaving it flexible in their articles as to which treatment should be applied given that the use of multiple proxies may make it less desirable for the ‘last received’ test to be applied in all cases.

### 3.10 Unclear instructions

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**In general, registrars/companies should try to take a common sense approach and, as long as the intentions of the shareholder are clear and not in breach of the statutory requirements or articles, they should act on the instructions received.** In most cases the weight of proxies lodged will be such that the outcome of the vote will not be affected by the inclusion or exclusion of one shareholding or any part of it. In the case of a dispute over the validity of an appointment the matter should be referred to the chairman of the meeting for a decision and in such circumstances he would need to consider any relevant provisions in the company’s articles and be likely to want to take legal advice.

### **3.11 Termination of proxy appointment**

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**Having appointed one or more proxies, a shareholder can subsequently terminate the appointment(s).** This can be done by:

- notifying the proxy and registrar/company of the termination;
- appointing a new proxy in place of the original(s);
- an individual shareholder attending and voting at the meeting in person; or
- in the case of a corporate shareholder, by the attendance and voting of a corporate representative.

The Act contains a new provision in s330(6), which sets out the earliest deadline permitted in articles of association for receipt of a termination of a proxy appointment (as with s327(2)(c), s330(6)(c) has not been commenced because of concerns about its practicality). The same points made in paragraphs 3.7 and 3.8 above in relation to timing for receipt and provisions in articles of association apply to this as well.

### **3.12 Amendment of voting instructions (see also paragraph 3.9)**

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**A shareholder can change the voting instructions given to their proxy at any time up until the proxy actually votes and they may also give the proxy discretion over how they vote. Shareholders can appoint as their proxy an individual (or different individuals in the case of multiple proxies) with discretion as to how to vote. In this way their proxy can decide how to vote at the meeting itself, giving maximum flexibility.**

These methods may be particularly useful for institutional investors who may wish to change their voting decision if new information becomes available. In the past, in such circumstances they were likely to have acted through a corporate representative and left their voting decision until a late stage, perhaps until the meeting itself. However, because of the current uncertainties described in section 4 the proxy route is now preferable as it provides certainty.

If a proxy has been instructed to vote in a certain way or to withhold their vote, they can only change the way they vote at the meeting if they have the authority of the shareholder to do so. This is, however, a matter between the shareholder and the proxy, and there is no duty on the company to seek any evidence of a change of instruction or to force the proxy to vote in accordance with instructions whether or not the company has seen them. Where proxies are appointed electronically it may not be possible to amend the instructions in the same way after a particular time; in such cases amended instructions will have to be given in another way, for example, in writing, by attending the meeting in person or by speaking to the proxy.

### **3.13 Disclosure and transparency rule requirements**

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**Under the disclosure and transparency rules (DTR 5.2.1(h) and 5.8.4) there is a requirement that anyone holding proxies (with discretion as to how the votes are cast) for 3% or more of the total voting rights must notify the market of that fact.** Any shares owned by the person holding the proxies must also be included in calculating the percentage of voting rights held. This applies equally to the Chairman of the meeting, who must add the shares he is interested in personally to the discretionary voting rights held by him. The notification should indicate what the position will be once the proxy appointment expires. Notifications should be made on form TR-1. Further guidance on this area and on how to complete form TR-1 in these circumstances can be found in paragraph 3.31 of the UKLA publication of List! 14 (updated in April 2007). This is available from the FSA website, [www.fsa.gov.uk](http://www.fsa.gov.uk).

### **3.14 Poll scrutiny**

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**Companies should be aware of s342 of the Act which gives members of a ‘quoted company’ the power to require an independent report on a poll.**

## **4. Corporate representatives**

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### **4.1 Use of corporate representatives**

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Many institutional shareholders hold their shares in nominee companies (often administered by custodians). In some cases the shares are held in designated accounts of the nominee company, clearly identifying the beneficiary. In other cases a number of beneficial holdings may be grouped together into one omnibus (or pooled) account in the name of the nominee company. Such nominees (as well as other companies) have historically relied on corporate representatives rather than proxies particularly in situations such as:

- if the proxy deadline is missed;
- if a new matter of concern arises after a proxy has been appointed; or
- if the investor wants to change their mind about something before the meeting at a late stage and therefore wants to attend the meeting to vote in a different way rather than changing the instructions to their proxy.

### **4.2 Provisions in the articles**

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The provisions in the Act relating to corporate representatives are in s323. S323 cannot be overridden by a company’s articles and, unlike s331 in relation to proxies, there is nothing in the Act allowing the articles to provide for more extensive rights for corporate representatives.

### **4.3 Single corporate representatives**

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The Act allows a single corporate representative to be appointed who then has full powers to exercise all of the rights of that member at the meeting, including a right to vote in different ways on a poll (s323(2) and s322).

### **4.4 Multiple corporate representatives**

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S323 also allows multiple corporate representatives to be appointed. It is clear from s323 that a corporate member can appoint more than one corporate representative and all of those representatives can attend the meeting. The Chairman should allow all of the corporate representatives who attend the meeting to speak. However, there are different legal interpretations as to how s323 operates if more than one corporate representative purports to vote at the meeting because s323(4) states that if a corporation appoints more than one corporate representative who then purport to exercise a power of the corporate member in different ways, the powers is to be treated as not having been exercised. This could potentially prevent the practices (for administrative purposes) of:

- treating designated accounts as separate shareholders for the purposes of voting using corporate representatives at the meeting; and
- allowing a corporate representative to represent part of a pooled account, with the number of shares clearly stated.

These practices have been put in place because large corporations, nominee companies and custodians do not usually have a single person who could easily coordinate the voting of all the designated and pooled accounts registered to that corporation (who could then be appointed as a single corporate representative and safely vote (under s323(2)) in different ways across the portfolio).

The Explanatory Notes to the Act on s323 state that: 'If a corporation wishes to appoint people with different voting intentions or with authority to vote different blocks of shares, they should appoint proxies'. As described in paragraph 4.6 below, the new rights of proxies under the Act and the ability to appoint multiple proxies should allow corporate shareholders to use the proxy route in most cases.

#### **4.5 Interpretations of s323(4)**

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There are differing views as to how s323(4) should be interpreted and what its impact is (not all of which are reflected below). One view is that if multiple corporate representatives are appointed to exercise rights over particular blocks of shares then they are each exercising different powers and therefore may each validly vote as they choose, which need not necessarily be in the same way.

Another view is that s323(4) is subject to an implied exception where s152 applies. S152 provides that where a member holds shares in a company on behalf of more than one person the rights attached to the shares need not all be exercised and if exercised need not be exercised in the same way. The purpose of s152 is to facilitate the exercise of rights by members in different ways to reflect the fact that shares are held by different underlying owners.

According to these interpretations, multiple corporate representatives **can** vote in different ways without risk of the votes being invalid (although in the case of the s152(a) interpretation, only where it is clear that the corporation is a nominee representing more than one beneficiary).

However, a significant number of lawyers (including many of the major City law firms) take a different view and do not support the s152 interpretation. There are also differing views as to whether s323(4) itself can be interpreted as allowing multiple corporate representatives to vote in different ways.

Given the divergence of views on the correct interpretation of the relevant sections, there is a risk that, on a contentious or close vote, any view taken (whether including or excluding the votes of multiple corporate representatives) may be challenged in the courts. After much debate, it appears that this issue is unlikely to be settled until it reaches the courts or until further legislation can be passed to clarify the section. In the meantime, companies and their shareholders have to find a way of dealing with this issue. Several solutions have been suggested.

#### **4.6 Use of proxies**

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This route provides the most certainty. With the new, extended rights of proxies so that they may now speak and vote on a show of hands (as well as on a poll) at meetings, and the new explicit power to appoint multiple proxies for a single shareholding, investors are strongly recommended to appoint proxies to represent them at general meetings rather than corporate representatives. The only advantage now provided by the appointment of a corporate representative is that they may register at the meeting itself and do not need to be notified in advance. However, although proxies must be appointed by the deadline

specified by the company, the instructions as to how they should vote (or whether they should withhold their vote) may be changed up to the time the vote is taken. So, in normal circumstances, there should be no need to use corporate representatives and proxies can be appointed instead.

#### **4.7 Use of a single corporate representative**

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Another alternative to the appointment of proxies is for a single corporate representative to attend the meeting to vote on behalf of the corporate shareholder, so that s323(4) would not apply. The representative could ascertain the views of the different underlying owners in advance and would then be able to vote in different ways on a poll as this is permitted by s323(2) and s322. Alternatively, blocks of shares held for different beneficial owners could be registered in the name of separate nominee companies so that each nominee company could appoint its own single corporate representative.

#### **4.8 DCR method**

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If in exceptional circumstances (such as the proxy deadline being missed) it is necessary for multiple corporate representatives to be appointed, there is a way of dealing with the uncertain legal position in the short term. Many law firms (including several of the major City law firms) have agreed that it appears the most workable in the circumstances, as have the three main share registrars and representatives of custodians and institutional shareholders. **Companies and investors are therefore recommended to use this method for the time being if it is impossible to avoid these uncertainties by using proxies or a single corporate representative. However, it should be emphasised that the legal effect of s 323 of the Act is uncertain and untested. This guidance does not purport to give any legal advice or confirmation in relation to the method described below.**

This method of dealing with multiple corporate representatives (referred to as the DCR method) involves one corporate representative acting as the designated corporate representative (DCR) on a poll. All of the other corporate representatives give voting directions to the DCR, by completing a voting directions card ('directions card') and only the DCR completes a poll card. When the DCR submits his poll card and so votes on the poll, the voting directions of all of the other corporate representatives are given effect as votes cast (or withheld) by him on behalf of the underlying corporate member. There are two suggested ways of determining who the DCR should be. Option 1 is the route preferred by the large institutional investors and their representative bodies. Companies are therefore recommended to make this route available at their general meetings (although as noted in paragraph 4.6 above, in normal circumstances multiple corporate representatives should not need to be appointed because appointing multiple proxies offers certainty and is to be preferred).

##### **Option 1**

The first way is for the corporate shareholder to appoint the Chairman of the meeting as a corporate representative, in addition to the other corporate representatives that it appoints. The Chairman of the meeting is appointed as the DCR with authority to vote in accordance with directions given to him by all of the other corporate representatives of that shareholder at the meeting. The other corporate representatives for that shareholder are appointed with authority from the corporate shareholder to attend, speak, demand a poll and on a poll to give voting directions to the Chairman of the meeting as the DCR. If a shareholder has appointed the Chairman of the meeting as the DCR in this way then, instead of receiving a poll card, the other corporate representatives for that shareholder who attend the meeting will receive a directions card, to complete if a poll is called.

On a poll, the Chairman of the meeting signs and submits a poll card casting (or withholding) votes in accordance with the directions cards that have been submitted by all of the other representatives of all of the corporate shareholders who have appointed the Chairman of the meeting as their DCR. When the poll votes are counted, the relevant directions cards (or a schedule of the votes taken from them) can be attached to the Chairman's poll card to verify the number of votes cast (or withheld). The Chairman should complete a separate poll card for any votes that he is casting (or withholding) as proxy, which will have separately detailed in a schedule to it the shares which are covered by those proxies.

It is emphasised that in normal circumstances corporate shareholders wishing to reflect different voting intentions at a meeting should use the proxy route as described in paragraph 4.6 above. If exceptionally this is not possible, and multiple corporate representatives are to be appointed, it is recommended that corporate shareholders appoint the Chairman of the meeting as their DCR in this way (assuming this facility is being made available by the company). As described below, in order for this method to work, the appointment letters for all of their corporate representatives should be in the form set out in Appendix C of this guidance note.

If the appointment letter for a corporate representative appoints the Chairman in this way as a corporate representative to vote, then even if only one corporate representative (apart from the Chairman) attends the meeting on behalf of the corporate shareholder the DCR method must be used. That is, the corporate representative must complete a directions card and their voting intentions must be reflected in a poll card signed and submitted by the Chairman. The corporate representative should not themselves complete a poll card.

### Option 2

If multiple corporate representatives arrive at the meeting but the Chairman of the meeting has not been appointed as the DCR, another method needs to be used to determine who the DCR should be. If the Chairman has not been appointed as the DCR, then, unless the corporate member has itself appointed the DCR, the first corporate representative who registers his attendance at the meeting will be treated as the DCR (unless some other manner of determining the DCR for that shareholder is decided at the meeting). Of course, if it is clear (from the nature of the holding, the appointment letter or from speaking to the corporate representative) that he is a single corporate representative (that is the only one who will attend the meeting on behalf of a particular corporate shareholder) then there is no need for a DCR and the DCR procedure does not need to be followed.

Under option 2, the DCR is given two poll cards on arrival and registration at the meeting. One is for use by the DCR when any poll is taken. The other (the reserve poll card) should be signed and submitted by him at the time of registration, to the person conducting the registration process. The reserve poll card must cover all of the resolutions and matters which may be the subject of a poll. By depositing the reserve poll card on registration, the DCR gives instructions to the Chairman of the meeting to submit that poll card on his behalf if for any reason he does not complete and submit a poll card when any poll vote is held (so as to give effect to the directions of the other representatives, but without casting any votes himself other than those he is directed to cast by the other representatives).

Any other corporate representatives for that shareholder receive a directions card instead of a poll card. By submitting a poll card, the DCR also casts the votes of the other representatives for the same corporate shareholder in accordance with their completed directions cards. If (for whatever reason) the DCR does not submit a poll card on any

particular poll then the Chairman of the meeting will submit the reserve poll card which the DCR signed and deposited when he arrived. This ensures that the directions of the other representatives are always taken into account.

This DCR method (following either of the options described above) allows the voting intentions of all of the corporate representatives present at the meeting for a corporate shareholder to be taken into account, but only one of them (the DCR) exercises the voting rights and so s323(4) does not apply and s323(3) allows the votes to be cast in different ways (both for and against or indicating a vote withheld).

If any issues arise in operating this DCR method at the meeting they should be referred to the Chairman of the meeting for determination. It should be noted that articles of association normally provide that a poll should be taken in such manner as the Chairman may direct. The Chairman will need to consider his duties in relation to the conduct of the meeting and take legal advice as necessary.

If the company does not operate a registration system in which poll cards are handed out in advance, then the process described above could be followed as part of the poll process in the event that a poll is called at the meeting.

Companies making the DCR method available must insert specific wording in poll cards and make a directions card available for use at the meeting. Each multiple corporate representative who attends the meeting should be given an explanation of the DCR method when they arrive. **In addition, if the DCR method is being made available at the meeting then it is best practice for companies to include a statement confirming this in their notice of meeting.** Sample wording for the various documents is included in Appendix B.

If a corporate shareholder wants to appoint the Chairman as the DCR as described in option 1, then the appointment letter for all of the representatives appointed by that shareholder should follow the form set out in Appendix C. If the notice of meeting does not state that the procedure for appointing the Chairman as the DCR will be available at the meeting, then a corporate shareholder who is appointing multiple corporate representatives should contact the company before the meeting to check whether it will be available.

The poll card wording is designed to be added to all poll cards to be used at the meeting, so that just one poll card format is necessary for all those voting on the poll. The directions card is also designed to apply whether the DCR is the Chairman (option 1) or is a person nominated among the corporate representatives (option 2). The directions card should include the wording shown in Appendix B, but should otherwise be completed in the same way as a poll card and have the same system (for example by use of identification numbers) for identifying who has completed it and how many shares it relates to.

If a company is using an electronic voting system for any polls at the meeting then the DCR method can be adjusted accordingly. Each corporate representative could receive a voting handset in the normal way but the registration process should record whether he is voting or giving directions according to whether or not he is the DCR. Alternatively, even if an electronic voting system is being used at the meeting, the votes of those using the DCR method could all be processed in paper form in accordance with the steps set out above. In any event, in any circumstances when the representative would previously have been required to complete a poll card even though the electronic system is being used (for example because the vote is to be split), he should be asked to complete either a poll card or a directions card in accordance with the steps set out above. When an electronic voting system is being used, the Chairman should always still submit a poll card in respect of all of the votes he is casting as DCR and a DCR nominated under option 2 should always still be asked to submit a reserve poll card.

The registrars need to have procedures in place at the meeting to ensure that the total votes cast (or withheld) for a corporate shareholder do not exceed the total number of votes which it holds.

As explained in paragraph 4.6 above, it is only in exceptional cases that a corporate shareholder may wish to appoint multiple corporate representatives instead of multiple proxies. However, as it will be difficult to determine in advance whether this approach may be needed, it is recommended that companies making the DCR method available should use the wording for the meeting documentation for all general meetings.

#### **4.9 Delaying the poll**

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The only other route which has been proposed because of the uncertainty created by s323 is that if a resolution is contentious and the inclusion or exclusion of the votes of multiple corporate representatives is likely to be critical to the outcome, then at the meeting a poll should be called for a time more than 48 hours later. This would give corporate shareholders the opportunity to appoint proxies (including multiple proxies) to vote on their behalf on the poll rather than relying on corporate representatives because under s327(2)(b) the proxy receipt time cannot be earlier than 24 hours before the poll is taken. Companies should take legal advice, in the light of their articles and the law relating to the conduct of meetings, if they propose to take this approach. However, such a delay may not be desirable, especially if the matters being considered are time critical. In addition some companies' articles require at least 7 days' notice of a poll not taken immediately if the time and place for holding the poll are not announced at the meeting. There may also be practical difficulties for larger companies in securing a suitable venue at such short notice.

#### **4.10 Show of hands vote**

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For a vote on a show of hands there is only one vote per member and therefore one vote between multiple corporate representatives for the same member. It is unlikely that the company would be able to determine which corporate representative should be voting and, as already noted for multiple proxies, it would be preferable for the vote to be held on a poll particularly if the matter is contentious. The chairman should therefore exercise his right to call a poll if there is any doubt about the result on a show of hands.

#### **4.11 Demanding a poll**

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It is unclear how s323 applies if one or more multiple corporate representatives of one shareholder join in a demand for a poll. If there is any doubt about whether a demand for a poll has been validly made in such cases, the chairman should exercise his right to call a poll.

#### **4.12 Letter of representation**

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S323(1) of the Act provides that a corporate representative can be appointed by a resolution of its directors or 'its other governing body'. The representative will have to provide evidence of their appointment at the meeting. An original board resolution or a certified copy would be adequate, although a copy of a certified copy should not usually be accepted.

Alternatively a letter confirming the corporate representative's appointment ('letter of representation') should be produced on the corporate member's letterhead signed by a duly authorised individual and submitted with evidence of the authority under which it was signed.

As described in paragraph 4.8 above, the corporate representative letter should be in the form set out in Appendix C if the DCR method with the Chairman as the DCR is being used by a corporate shareholder.

If a corporate shareholder wishes to appoint or may be appointing more than one corporate representative, it is essential that it be made very clear in the letter of representation whether the appointment is additional to, or in place of, any other appointments in respect of that holding (or any part of it).

#### **4.13 Changes to articles of association**

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As companies are amending their articles to take account of the various provisions of the Act, there are generally two broad approaches. One is not to repeat provisions of the Act in the articles (to give a shorter set of articles) and the other is to include them where relevant (so that all of the provisions can be found in one place). However, whichever route is chosen for the articles generally, because of the uncertainty of the legal interpretation of s323 it **is recommended that in describing the right to appoint a corporate representative or representatives, companies do not incorporate the wording of s323(2) – (4) into their articles.** Many institutional investors have indicated their opposition to its inclusion (although reference can be made to the basic power in s323(1)).

Another reason not to incorporate the whole of s323 into a company's articles is that, if that section is changed in the future, the articles would then be inconsistent with any new provisions.

#### **4.14 Disclosure and transparency rule requirements**

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Corporate representatives are not identified in DTR 5 as having a disclosure obligation if they are given discretion as to how to vote, unlike the position for proxies, which are specifically identified in DTR 5.2.1(h) (as described in paragraph 3.13 above). It could be argued that the representative is the equivalent of the member attending the meeting, he is there to represent the relevant corporate member with the voting rights, and so has no disclosable interest. However, corporate members and representatives should consider their own particular circumstances and take advice as necessary in order to determine whether any disclosure obligation arises under any other paragraphs in DTR 5.2.1 or any other part of DTR 5.

In any event, the appointment of the Chairman of the meeting as corporate representative for a corporate shareholder under the DCR method described in paragraph 4.8 above, would not trigger an obligation for the Chairman to make a notification under the DTRs because the Chairman is not given any discretion as to how to vote – he votes in accordance with the directions given to him by the other corporate representatives at the meeting.

### **5. Interaction between proxies and corporate representatives**

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Corporate shareholders need to have clear procedures for appointing proxies and corporate representatives. As previously noted, it is currently considered preferable to appoint proxies whenever possible and for corporate representatives only to be used in exceptional circumstances where there is no alternative.

The letter of representation of any corporate representative(s) should confirm the status of both the proxy(ies) (if any) and the corporate representative(s).

It is thought that, given that s324 of the Act specifically allows a member to appoint a proxy in relation to 'all or any' of his rights, a member should be entitled to attend the meeting as well as one or more proxies in circumstances where a proxy or proxies has or have been appointed to exercise rights over less than the total shareholding and the member wishes to attend in person in respect of the remaining shares. Similarly, if multiple proxies have

been appointed the member should be able to attend the meeting and instruct either that all or that only some of those proxies are to be superseded by his presence at the meeting – provided he does not exercise his voting rights over more than the number of shares covered by the superseded proxies. The same principles can be applied to corporate representatives or multiple corporate representatives who attend the meeting (and are therefore the equivalent of an individual member attending in person). Companies must, however, also consider any relevant provisions in their articles on this issue and take their own legal advice.

**Please note, it is essential to check the provisions of the individual company’s articles to confirm that the general rules set out below are applicable.**

Differences between	Proxies	Corporate representatives
Number that can be appointed per holding	Unlimited, but not more than one proxy per share. <ul style="list-style-type: none"> <li>• <i>it is essential to establish whether a new appointment overrides or is in addition to any previous appointments and the number of votes allocated to each proxy.</i></li> <li>• <i>note that a voting instruction to a proxy overrides any earlier voting instruction to that proxy.</i></li> </ul>	Unlimited (but beware s323(4)).
Vote on show of hands	Yes (but check articles to be sure that they have not altered this position).	Yes (multiple corporate representatives will always have one vote between them on a show of hands because they must be treated in the same way as an individual member voting in person and this is not subject to the articles unless the articles provide generally for a different number of votes on a show of hands per member). It will be difficult at the meeting to distinguish whether or not such votes should be declared invalid under s323(4) and a poll is recommended for any contentious or close vote.
Demand a poll	Yes	Yes
Speak at meeting	Yes	Yes
Appointment/ registration	Appointment must be recorded by the deadline set by the company, which cannot be earlier than the deadline provided by s327.	Registration at the meeting.

Differences between	Proxies	Corporate representatives
Voting direction	Can be given voting discretion, or directed to vote 'for' or 'against' or to withhold their vote. Voting directions can be changed up to the time of the vote. This is a matter between the shareholder and the proxy and not a matter for the company.	Corporate representatives effectively act on behalf of the corporate shareholder at the meeting. As such they normally have total discretion. They may, however, be directed to vote 'for' or 'against' or to withhold their vote. Voting directions can be changed up to the time of the vote. This is a matter between the shareholder and the representative and not a matter for the company.
Able to appoint proxies	No. A proxy does not have a right as proxy to appoint other proxies unless this is allowed under a company's articles.	Only if duly authorised to do so on behalf of the shareholder.

## 6. Attendance at general meetings

To assist the orderly and timely admission of all attendees, ICSA recommends that corporate representatives wishing to attend a general meeting pre-register with the registrar/company and then arrive at the registration area in good time before the start of the meeting, particularly if more than one corporate representative has been appointed in relation to the same registered holding or one representative is representing a number of shareholders (or beneficial owners).

For larger company meetings where attendance might be expected to be high, this should be around 30 minutes before the start of the meeting for a corporate representative of one or two shareholders (or beneficial owners). Up to an hour should be allowed for those representing multiple holdings or where there are multiple corporate representatives appointed by the same registered member. It is also advisable for a proxy representing several shareholders (or beneficial owners) or appointed as one of several proxies for the same registered member to arrive in sufficient time for all of their appointments to be validated.



Companies should also review their arrangements and aim to ensure that registration facilities at general meetings are adequate to deal with multiple proxies and corporate representatives.

*January 2008*

**7. Appendices**

**Appendix A: Sample proxy form**

**Note:** This is to show an example of the wording to be used on the form to reflect the rights of proxies under the Act and the right to appoint multiple proxies. The layout and other details to be included will depend on the system and pro forma used by the company's registrars and this should be checked with them before producing the document.

 <p><b>The Sample Company</b></p>	<p><b>Attendance Card</b> Please bring this card with you to the Meeting and present it at Shareholder registration/accreditation.</p> <p>The Chairman of <b>Sample Company</b> invites you to attend the <b>Annual General Meeting</b> of the Company to be held at The XXXXXX XXXXXXXX XXXXX, XXXXXXXXXXXX XXXX, XXXXXX XXXXXXXXXXXX, XXXXXX XXXXXXXXXXXX, XXXXXXXXXXX XXXX, on DD MMMMMM YYYY at XX.XXam/pm.</p> <p>Shareholder Reference Number <b>C1234567890</b>      <b>J N T</b></p> 
<p>MR A SAMPLE DESIGNATION (IF ANY) MR JOINT HOLDER 1 ADD1 ADD2 ADD3 ADD4</p> <p style="text-align: right;">12345</p> <p><b>1234568910</b></p>	
<p><b>Form of Proxy – Annual General Meeting to be held on DD MMMMM YYYY</b></p>	
<p>Kindly note: This form is issued only to the addressee(s) and is specific to the unique designated account printed hereon. This personalised form is not transferable between different (i) account holders; or (ii) uniquely designated accounts. The Company and ABC Registrars PLC accept no liability for any instruction that does not comply with these conditions.</p>	
<p><b>Explanatory notes:</b></p> <ol style="list-style-type: none"> <li>Every holder has the right to appoint some other person(s) of their choice, who need not be a shareholder as his proxy to exercise all or any of his rights, to attend, speak and vote on their behalf at the meeting. If you wish to appoint a person other than the Chairman, please insert the name of your chosen proxy holder in the space provided (see reverse). If the proxy is being appointed in relation to less than your full voting entitlement, please enter in the box next to the proxy holder's name (see reverse) the number of shares in relation to which they are authorised to act as your proxy. If left blank your proxy will be deemed to be authorised in respect of your full voting entitlement. (or if this proxy form has been issued in respect of a designated account for a shareholder, the full voting entitlement for that designated account.)</li> <li>To appoint more than one proxy, (an) additional proxy form(s) may be obtained by contacting the Registrars helpline on XXXX XXX XXXX or you may photocopy this form. Please indicate in the box next to the proxy holder's name (see reverse) the number of shares in relation to which they are authorised to act as your proxy. Please also indicate by ticking the box provided if the proxy instruction is one of multiple instructions being given. All forms must be signed and should be returned together in the same envelope.</li> <li>The 'Vote Withheld' option overleaf is provided to enable you to abstain on any particular resolution. However, it should be noted that a 'Vote Withheld' is not a vote in law and will not be counted in the calculation of the proportion of the votes 'For' and 'Against' a resolution.</li> <li>Pursuant to regulation 41 of the Uncertificated Securities Regulations 2001, entitlement to attend and vote at the meeting and the number of votes which may be cast thereat will be determined by reference to the Register of Members of the Company at 6pm on the day which is two days before the day of the meeting or adjourned meeting. Changes to entries on the Register of Members after that time shall be disregarded in determining the rights of any person to attend and vote at the meeting.</li> <li>To appoint one or more proxies or to give an instruction to a proxy (whether previously appointed or otherwise) via the CREST system, CREST messages must be received by the issuer's agent (ID number XXXXX) not later than 48 hours before the time appointed for holding the meeting. For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp generated by the CREST system) from which the issuer's agent is able to retrieve the message. The Company may treat as invalid a proxy appointment sent by CREST in the circumstances set out in Regulation 35(5)(a) of the Uncertificated Securities Regulations 2001.</li> <li>The above is how your address appears on the Register of Members. If this information is incorrect please ring the Registrar's helpline on XXXX XXX XXXX to request a change of address form.</li> <li>The completion and return of this form will not preclude a member from attending the meeting and voting in person.</li> </ol>	
<p><b>LODGE YOUR PROXY VOTE USING THE INTERNET 24 HOURS A DAY 7 DAYS A WEEK</b></p>	
<p><b>All named holders:</b> MR A SAMPLE</p> <p>SRN: <b>C1234567890</b>      PIN <b>1234</b></p>	<p><b>TO VOTE USING THE INTERNET go to the following website:</b> <a href="http://www.abcregistrars.com/Investor/Proxy">www.abcregistrars.com/Investor/Proxy</a> You will need an Internet enabled computer with minimum web browser of IE4 or Netscape 4. You will be asked to enter the Shareholder Reference Number (SRN) and PIN Number as printed opposite and agree to certain terms and conditions.</p>
<p>To be effective, all votes must be lodged at the office of the Company's registrars at: ABC Registrars PLC, Balloon Rd, London, EC1 1EC by DD MMMMMM YYYY at XX.XXam/pm.</p> <p>SG190    Qwertyuioasdfgh      00000XXX/000000/000000    10000A    0000A    P00</p>	

**Form of Proxy**

Please use a **black** pen. Mark with an **X** inside the box as shown in the example.



I/We hereby appoint the Chairman of the Meeting OR the following person

	*
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Please leave this box blank if you have selected the Chairman. Do not insert your own name (s).

as my/our proxy to exercise all or any of my/our rights to attend, speak and vote in respect of my/our voting entitlement\* on my/our behalf at the Annual General Meeting of <Company Name> to be held at <Building Name, Street Name, Town Name, City Name Postcode> on DD MMMM YYYY at XX.XXam/pm, and at any adjourned meeting.

Please tick here if this proxy appointment is one of multiple appointments being made.\*  
\* For the appointment of more than one proxy, please refer to Explanatory Note 2 (see front).

**Ordinary resolutions**

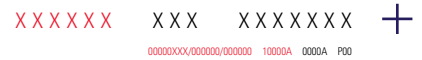
	For	Against	Vote withheld		For	Against	Vote withheld
1. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Intention to attend</b>			
7. To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Please indicate if you wish to attend the AGM <input type="checkbox"/>			

I/We would like my/our proxy to vote on the resolution proposed at the Meeting as indicated on this form. Unless otherwise instructed the proxy may vote as he or she sees fit or abstain in relation to any business of the meeting.

**Signature**

**Date**

In the case of a corporation, this proxy must be given under its common seal or be signed on its behalf by an attorney or officer duly authorized, stating their capacity (e.g. director, secretary).



## Appendix B: Wording for DCR method

### **Wording for notice of meeting**

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In order to facilitate voting by corporate representatives at the meeting, arrangements will be put in place at the meeting so that (i) if a corporate shareholder has appointed the Chairman of the meeting as its corporate representative with instructions to vote on a poll in accordance with the directions of all of the other corporate representatives for that shareholder at the meeting, then on a poll those corporate representatives will give voting directions to the Chairman and the Chairman will vote (or withhold a vote) as corporate representative in accordance with those directions; and (ii) if more than one corporate representative for the same corporate shareholder attends the meeting but the corporate shareholder has not appointed the Chairman of the meeting as its corporate representative, a designated corporate representative will be nominated, from those corporate representatives who attend, who will vote on a poll and the other corporate representatives will give voting directions to that designated corporate representative. Corporate shareholders are referred to the guidance issued by the Institute of Chartered Secretaries and Administrators on proxies and corporate representatives – [www.icsa.org.uk](http://www.icsa.org.uk) – for further details of this procedure. The guidance includes a sample form of representation letter if the Chairman is being appointed as described in (i) above.

### **Wording for Poll Card**

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By submitting this poll card, a corporate representative who is the designated corporate representative for a shareholder casts (or withholds) the total number of votes he is directed to cast (or withhold) by any other corporate representatives for that shareholder as shown in, and in accordance with, the directions cards submitted (or via the electronic handsets used) by them before the close of the poll, in addition to casting (or withholding) any votes specified in this poll card.

### **Wording for Directions Card**

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I hereby give directions to cast (or withhold) votes on a poll as specified in this card to the person who is the designated corporate representative of the shareholder who has also appointed me as corporate representative.

### **Note for multiple corporate representatives for the same shareholder attending the meeting**

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This note is to explain the procedures at this meeting if more than one representative for the same corporate shareholder attends the meeting.

Section 323 of the Companies Act 2006 provides that:

#### **Representation of corporations at meetings**

- (1) If a corporation (whether or not a company within the meaning of this Act) is a member of a company, it may by resolution of its directors or other governing body authorise a person or persons to act as its representative or representatives at any meeting of the company.
- (2) Where the corporation authorises only one person, he is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual member of the company.
- (3) Where the corporation authorises more than one person, any one of them is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual member of the company.

- (4) Where the corporation authorises more than one person and more than one of them purport to exercise a power under subsection (3):
  - (a) if they purport to exercise the power in the same way, the power is treated as exercised in that way,
  - (b) if they do not purport to exercise the power in the same way, the power is treated as not exercised.

In the light of this provision, and in particular section 323(4), procedures have been put in place at the meeting so that the voting intentions of all of the corporate representatives who attend the meeting can be taken into account. This involves one of the corporate representatives acting as the designated corporate representative (DCR). When the DCR submits his poll card (or inputs his electronic instructions if an electronic voting system is being used), the voting instructions of all of the other corporate representatives are given effect on the poll in accordance with directions cards submitted by them (or in accordance with their electronic instructions). There are two ways of determining who should be the DCR:

**1. Chairman appointed as DCR**

If the corporate shareholder has appointed the Chairman as the DCR, then all of the other corporate representatives for that shareholder receive a directions card rather than a poll card and submit the directions card on the poll (or in the case of an electronic voting system, it is noted on the electronic entry on registration that they are giving directions when using the electronic handsets). The Chairman of the meeting will sign and submit a poll card and by doing so he votes shares for and against (or withholds votes) on the poll in accordance with the directions (whether submitted on a directions card or via an electronic handset) from all representatives who have submitted them before the close of the poll.

**2. DCR determined in another way**

For cases where the corporate shareholder has not appointed the Chairman as the DCR, then the DCR is chosen from the representatives who attend the meeting. The DCR will normally be the first to register his attendance at the meeting (unless some other method of determining the DCR for that shareholder is decided at the meeting). The DCR receives a poll card (or, if the electronic voting system is being used to process his votes, is noted as being the voting representative and receives an electronic voting handset). He will also be asked on registration to sign and deposit a reserve poll card (covering all of the resolutions and matters which may be the subject of a poll). By depositing the reserve poll card when he registers at the meeting, that representative is giving instructions to the Chairman to submit the reserve poll card on his behalf if he does not himself submit a poll card in relation to any of the polls held at the meeting (so as to give effect to the directions of the other representatives, but without casting any votes himself other than those he is directed to cast by the other representatives). Any other corporate representatives for that shareholder receive directions cards instead of poll cards (or are noted on the electronic voting system as giving directions). By submitting a poll card (or using the electronic handset) the DCR also casts votes in accordance with the voting directions given by the other corporate representatives (whether on directions cards or via electronic handsets). If for whatever reason the DCR does not submit a poll card (or use the electronic handset) on any particular poll then the chairman will submit the reserve poll card, so that the directions of the other representatives can still be taken into account.

Appendix C: Wording for letter of representation for corporate representative(s) if Chairman to be appointed as DCR

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**ABC Registrars or XYZ plc**

Dear Sir,

**Letter of representation**

Pursuant to Section 323 of the Companies Act 2006 the persons named below have been authorised by a Board Resolution passed on [date] to act as the representatives of [nominee name as it appears on the Register, including any account designation] in relation to the AGM/GM [specify] of [company name] to be held on the [date] at [time] or any adjournment thereof:

1. The Chairman of the meeting is authorised and instructed to act as representative to vote (or withhold a vote) on a poll as the designated corporate representative in accordance with the voting directions of any other corporate representatives for [nominee name excluding any account designation] at the meeting (whether given in a directions card or via an electronic handset).
2. [Name of corporate representative] is authorised and instructed to act as representative to speak, demand a poll and, on a poll, to give directions (whether in a directions card or via an electronic handset) to vote (or withhold a vote) to the Chairman of the meeting appointed pursuant to this letter. For administrative purposes, any directions to vote given by this representative (or any other powers exercised) shall be treated as relating to the number of shares in account [insert designation details] at the relevant time [or insert number of shares].

This appointment does not revoke or replace any other appointment of a corporate representative. *[See paragraph 4.12 – better to be included in all cases as shareholder may not know whether other corporate representatives have been appointed for the same meeting]*

Yours faithfully

**Note:**

Letter must be on the company's letterhead and bear the original signature of an authorised signatory.

Appendix D: Members of the working group which updated this guidance note

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Andy Cotter	Computershare Investor Services plc
Ben Mathews	Rio Tinto plc
David Parkes	BAe Systems plc
John Roundhill	Capita Registrars plc
Richard Russell	GPG plc
Bridget Salaman	ICSA
Carol Shutkever	Herbert Smith
Peter Swabey	Equiniti Limited
Keith Walmsley	London Law Agency
David Wisbey	Birkett Long
Catherine Wright	ICSA
Lorraine Young	ICSA Policy Adviser

The working group is also greatly indebted to contributions from the following:

Eric Campbell	Mayer Brown
Allen Harris	HSBC Securities Services
David Jackson	BP plc
Vanessa Knapp	Freshfields Bruckhaus Deringer
Philippa Richards	Allen & Overy
Richard Rowland	Allen & Overy
Catherine Sukmonowski	BP plc
Jeffrey Sultoon	Ashurst
Steven Turnbull	Linklaters
Richard Ufland	Lovells
William Underhill	Slaughter and May
Nilufer von Bismarck	Slaughter and May

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