Letter to the Business Secretary

Dear Secretary of State

We share the Government's ambition to create a growing enterprise economy driven by digital transformation and underpinned by access to capital via well-functioning equity markets. However, to achieve this aim we believe far-reaching changes are needed to company law that is stuck in a 40-year-old time warp.

In the 1980s, the Government pursued a concerted programme to promote popular participation in capitalism and the enterprise economy; people were encouraged to 'Tell Sid' about the virtues of shareholding, creating a nation of investors. Today, however, that level of shareholder capitalism would not be possible. The current outdated legislation means that ordinary people who have invested in the UK's listed businesses struggle to hear from and communicate with them. Almost half of individual shareholders cannot directly engage with the company they invest in as they invest via nominee platforms, and the rest are constrained by an outdated, paper-based system that would in any other facet of life be obsolete. This wholly unsatisfactory situation can be fixed through a handful of straightforward amendments to the UK Companies Act 2006 to reconnect shareholders to the companies they invest in.

PROPOSED REFORMS TO THE COMPANIES ACT:

1. Increased two-way dialogue between companies and shareholders
2. A standardised technology solution across the sector
3. Digital communications as default
4. Removal of requirement of hard copies
5. Recognition of digital AGMs

Digital transformation has a vital role to play in ensuring we have public equity markets that are democratic and conducive to growth. One where every shareholder has the right and ability to engage with, and receive timely information from, the companies they invest in, and where businesses can communicate efficiently and, in a manner, fit for the digital age. We therefore wholeheartedly welcome the current Flint Digitisation Taskforce which seeks to modernise and digitise the UK's shareholding framework, but tangible action needs to be taken to truly democratise shareholding and the power to do that rests in your hands.

COMPANY LAW IS DISENFRANCHISING NOMINEE HOLDERS AND MUST BE REFORMED

The law was last reviewed in 2006 but many key elements remain unchanged from 1985, including legislation on the rights of nominee investors. This outdated legislation has created a three-tier model where institutional investors can access time and information direct from leadership, certificated shareholders can have a direct relationship with the company, while nominee holders languish as third-class citizens. Communication is only possible by allowance of the nominee platform but as it stands they have no obligation or duty to provide their customers with information about the companies in which they invest (outside of purely investment return information), and have no ability to hear directly from the companies themselves.

This is a growing problem. Today, nominees make up 40% of the total shareholder market and investment platforms are experiencing annual double digit growth. At the same time, certificated shareholder numbers are declining – meaning UK plcs are rapidly losing sight of their investors. To put

this in context; M&S has projected that at its current rate of annual decline, within 30 years the company will not be able to speak to a single shareholder without a change to legislation as we are losing visibility of over 1% of our register annually. The convenience of investing via nominee platforms has come at the expense of the important link between companies and their retail shareholders. Companies don't know who their investors are and investors are powerless and completely detached from the companies they are funding. This eats away at the bond of trust and sense of mutual accountability between ordinary investors and markets and, in the end, it will eat away at the legitimacy of our capital markets.

Proposed reform 1: Platforms and registrars should work together to facilitate two-way dialogue between companies and the ultimate shareholders. Mark Austin's recent review concluded that the cost efficiencies delivered by the intermediated system had been prioritised over transparency and corporate governance. By opening a direct link between companies and nominee investors via the registrars, we can restore the rights of UK shareholders that have been diminished under the current structure and boost their ability to communicate with the company and between themselves to hold businesses to account.

Proposed reform 2: We need to build a sector-wide standardised technology solution. There is no doubt that digital innovation can play a role in breaking down the barriers in nominee communication. There are early stage trials underway between public companies and intermediaries to use blockchain technology to establish a shareholder ID and open up nominee access. However, individual intermediaries developing technical work-arounds is not a long term solution – what we need is nominees and registrars to work together towards a sectorwide standardised approach.

DEMOCRATIC MARKETS REQUIRE DIGITAL COMMUNICATION FOR A DIGITAL AGE

When digital is normal in our daily lives, it makes no sense that digital is not accepted as the default for any form of shareholder communication. This is despite strong evidence that it drives higher engagement for shareholders and efficiency for business.

Share ownership is falling behind other sectors; banking statements, credit agreements, gas and energy bills, retail receipts and even football tickets have all now shifted to a digital first process. In the age of 24/7 news, a shareholder must 'opt in' to electronic communications, with no requirement to provide an email address; limiting most company communication to the five-day turnaround of print and postage. Not only does this deny shareholders the benefit of in-the-moment news updates and more regular engagement, but it is also very costly to companies, for instance M&S incurs c.£100,000 every time there is a mail out to shareholders. It is also a poor choice for the environment when digital communications require no paper, printing or transport.

M&S has invested in engaging regularly with its retail shareholders. Having asked them if they would like to receive email communication, they ensure that every relevant update is shared directly with those who have signed up with personalised messages. It has been proven that shareholders really value timely e-communication, as M&S experiences a c.65% open rate from those registered; an engagement level most marketeers could only dream of. In this context, we seek two further reforms to legislation.

Proposed reform 3: Digital is made allowable for all shareholder communication and email addresses should be a pre-requisite of purchasing equity. In doing this, online publication and email distribution of shareholder communications by default should be validated.

Proposed reform 4: Removal of requirement of hard copies of annual reports and shareholder communications. Physical annual reports can still be made available for those members who request it.

DIGITAL AGMs ENHANCE RATHER THAN DIMINISH SHAREHOLDER ENGAGEMENT

Under current legislation, a digital AGM does not constitute a legitimate meeting – unless a company undergoes the lengthy process of amending its articles of association and, even then, only a hybrid meeting can be held. Today's law stipulates that a company must have two or more shareholders present and declare a 'place' of meeting - meaning a pair of men in a shed in the Outer Hebrides is valid but over 200 investors convened via secure online technology is not. Since the pandemic, remote hydrid meetings have increased by 60%. It is madness that AGMs are not keeping up with the digital way the world now works.

However, M&S – a company that has opted for article amendment – has demonstrated the power a digital meeting has to drive shareholder engagement. Marketwide AGM attendance was down c.55% in 2022 and recent QCA research has found that 53% of shareholders didn't attend AGMs as they were too far away. However, M&S has bucked this trend and participation has more than trebled in the last three years. Last July, c.1,700 individual shareholders engaged with its digital platform v 561 attendees at its 2019 physical meeting. Current legislation requires shareholders to either not work or take time off, be able to travel - often to far flung places - where AGMs are held, and enjoy standing up in cavernous rooms to address Board members on a stage. This is the opposite of democratising access and is so easy to fix with today's technology. Digital removes geographical restrictions, ensures that holding a board to account no longer requires a willingness to stand and speak at an in-person meeting – and moves the Q&A from a session dominated by a small number of regular AGM attendees, sometimes on an obscure topic, to one that addresses the majority of shareholder views raised.

In seeking to recognise the validity of digital meetings, it should not invalidate other forms, including physical and hybrid meetings, nor the ability for questions to be posed on the day and answered live. In line with the FRC's 'Good Practice Guidance for Company Meetings' (July 2022) companies should have the flexibility to opt for the format that works for the size, shape and geography of its shareholder base. The key is that new technologies are used as a tool to increase engagement and transparency and therefore, we think it's right that there are checks and balances in place to ensure this is the case, including the requirement to publish responses to all questions submitted.

Proposed reform 5: Recognise the validity of digital AGMs and GMs – removing the requirement to state the place and the requirement for two qualifying persons to be present for the meeting to be quorate. To ensure transparency, all submitted questions must be answered during the meeting or published, with a response on the company website, within 48 hours of the meeting conclusion.

The signatories of this letter represent all sides of the equity equation; one of the oldest listed businesses in the UK, and the representatives of private shareholders and UK PLC. We are all certain that digital first reform of our company law will be better for shareholders, better for business and ultimately, better for Britain.

All investors – no matter how they hold - will benefit from more democratic engagement, with more informed, regular communication, reduced time and travel requirements and fundamentally a more level playing field regardless of where they live, what they do, and level of confidence in public speaking. Companies will benefit from more engaged shareholders, cost efficiencies and a dismantling of unnecessary bureaucracy. In doing so, we will make UK public markets a more attractive place to

invest and a more attractive place to list. We urge you to support our Share Your Voice campaign and amend the Companies Act with the five simple reforms we have laid out in this letter.

Signed by: Archie Norman, Chairman Marks and Spencer Group plc, James Ashton, CEO, Quoted Companies Alliance, Charles Henderson, Chairman, United Kingdom Shareholders Association and Mark Northway, Director, ShareSoc, Thera Prins, CEO Shareholder Services Equiniti.