ConnectEast Management Limited
ABN 68 071 292 647 / AFSL 254 959
as responsible entity for
ConnectEast Investment Trust ARSN 110 713 481 and
ConnectEast Holding Trust ARSN 110 713 614

19 January 2011

By email: executiveremuneration@treasury.gov.au

The General Manager
Corporations and Financial Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir,

Submission on Exposure Draft – Corporations Amendment (Improving Accountability on Director and Executive Remuneration) Bill

ConnectEast Group comprises ConnectEast Management Limited as responsible entity for ConnectEast Investment Trust and ConnectEast Holding Trust. Units in these two trusts are stapled together and are traded on ASX as ConnectEast Group (CEU). Because of our structure as stapled managed investment schemes, the requirement under s 300A for a listed company to include a remuneration report in its directors' report does not apply to ConnectEast Group. However, we voluntarily elect to comply with the requirements of s 300A to ensure that our investors receive the information they would reasonably expect to receive were ConnectEast group structured as a listed company.

We have some comments and concerns in relation to the exposure draft, which are outlined in this submission. The comments are made by reference to the provisions that apply to listed companies, rather than by reference to any special provisions that apply to managed investment schemes.

Two strikes test and requirement for a "re-election resolution"

We do not support this measure in the exposure draft for the following reasons.

- A "no" vote of 25% (and up to 49%) is a minority view. Using 25% as the trigger (even over two successive years) for the proposed "re-election resolution" disregards the majority view in both years. If this proposal proceeds, it should provide for a "no" vote of more than 50% on the second or both remuneration reports as a trigger.

- Executive remuneration is a high profile matter, and an important one for directors and shareholders. However, in most companies, it is a relatively immaterial expense item. Overspending in other areas of a business may be far more likely to have an adverse effect on corporate performance and returns to shareholders.

- Dissatisfied shareholders already have statutory means by which to express their dissatisfaction with directors, on remuneration or other matters. These statutory means include by voting against motions for election of directors, by proposing their own ordinary resolution for removal of some or all directors (under s 249N, members holding at least 5% may require a resolution to be put to the next general meeting), and by selling their shares.

- The practical effectiveness of the proposal must be questioned. It seems unlikely that a "re-election resolution" (to convene a further general meeting to consider a spill of the directors) would be passed with the required majority of 50% if (say) 75% of members had voted in favour of the remuneration report.

- While unlikely, the prospect of a spill resulting from a minority non-binding vote against two successive remuneration reports would be highly disruptive to orderly management and succession planning within a company. It is questionable whether this would be of benefit to shareholders.

- There would be other practical difficulties. The exposure draft requires the "re-election resolution" to be included in the notice of meeting after only one minority non-binding vote against the remuneration report. This means that shareholders will not have the critical piece of information required when deciding how to vote on the "re-election resolution" - that is, the result of the second non-binding vote on the remuneration report. In our experience, the vast majority of shareholders vote by proxy, which they must do before the meeting. (We also permit our members to cast a direct vote in advance of the meeting.) The exposure draft would require them to vote before knowing this vital information, and indeed whether the resolution will actually be required to be put.

- Remuneration reports have become complex documents, covering both past and future remuneration principles and payments to both executives and non-executive directors. Votes cast against a motion to adopt a remuneration report may be motivated by dissatisfaction with the whole report, or a large or small part of it. In either case, the reason for a vote against adopting the remuneration report is frequently not revealed by shareholders.

- The exposure draft would require a remuneration report to explain whether comments made on the previous year's remuneration report at the previous year's AGM have been taken into account or why they have not been taken into account. It should be noted that attendance by shareholders at AGMs is relatively low, and comments made by those who do attend may or may not represent the reason for votes cast against the remuneration report. As noted above, the vast majority of votes are cast before, not at the meeting. Proxies who attend and vote at meetings frequently do not speak at the meeting to reveal the reason for their appointer's vote.

Improving accountability on the use of remuneration consultants

The exposure draft proposes measures to deal with the potential conflict of interest for a remuneration adviser being engaged by executives on behalf of the company to advise about executive remuneration. This concern is understood, but the measures proposed are unduly onerous.

The exposure draft would require all remuneration consultants engaged to advise on the remuneration of key management personnel (**KMP**) to be engaged by non-executive

directors and to report only to non-executive directors or the remuneration committee, rather than company executives. A remuneration consultant who provides such advice to a company executive would commit an offence.

The remuneration report would be required to disclose certain details about the remuneration consultant's engagement, advice and remuneration.

We have the following comments on this proposal.

- KMP remuneration is an obvious area in which non-executive directors should obtain independent advice. The fact that they have done so should be disclosed in a listed company's remuneration report.

- However, there should be no prohibition on company executives on behalf of the company seeking and obtaining advice about KMP remuneration. The proposed prohibition would provide an impractical restriction on everyday management activities. A company's HR executives will frequently need to obtain expert advice about incentive plans, retirement benefits, taxation, superannuation contributions and other aspects of the remuneration of executives, including KMPs. A CEO will often want advice about the remuneration of KMPs who report to the CEO. The reality of corporate life is that executive management makes proposals (about remuneration and many other matters) for consideration by directors. Management's proposals will often be supported by professional advice obtained by management from actuaries, economists, accountants, lawyers, and other advisers. While engaged by executive management on behalf of the company, these advisers typically owe duties, supported by professional standards, to the company, rather than to executive management.

- Our suggestion would be to require directors to disclose whether they have obtained advice on KMP remuneration independently of executive management and, if so, to disclose the additional details set out in s 300A(g) of the exposure draft, other than a summary of the nature of the advice and the principles on which it was prepared.

- Advice from consultants on remuneration (and other matters) is often sought to inform. Advice will often not be followed to the letter, because directors remain responsible for the conduct of the company's affairs. In some cases, advice from one consultant may differ from that obtained from another. One or an amalgam or another option may be adopted. KMP remuneration structures need to be tailored to the circumstances of the company and its KMPs, rather than to comply with prescriptive requirements. The confidentiality of advice, including from KMPs, should be preserved. Disclosure of the contents of advice received by directors from remuneration consultants is not recommended.

- KMP remuneration is agreed by negotiation between the company (represented by directors) and individual KMPs. It is not dictated by non-executive directors, let alone by their remuneration consultants. In negotiating KMP remuneration, non-executive directors are bound to act in the best interests of the company as a whole, where appropriate with guidance but not direction from remuneration and other expert advisers.

- The breadth of the proposed definition of "remuneration consultant" should be considered. A definition including anyone other than an officer or employee who provides advice "relating to the nature and amount or value of remuneration for one

or more members of the key management personnel for the company" will potentially capture advisers from many disciplines. Some, such as lawyers, tax advisers and accountants, will typically provide the company with advice on a broad range of matters. Disclosure of the nature of other work performed by such advisers, as required by proposed s 300A(g)(vi) and (vii) will often be contrary to the company's interests, having regard to the potential for breach of confidentiality and privilege.

- The exposure draft could also clarify that there should be no prohibition on non-executive directors providing KMPs with a copy of the advice obtained from a remuneration consultant engaged by the non-executive directors.

Prohibiting KMP from voting on remuneration matters

We have no objection to the principles underlying this proposal.

Prohibiting hedging on incentive remuneration

We have no objection to the principles underlying this proposal, which is consistent in any case with our own current internal requirements.

Declarations of "no vacancy"

While this issue has not arisen for ConnectEast, we question the need for the amendment and its practical effect. Even with the amendment in effect, a board intent on entrenching itself could still do so by appointing additional directors of its own choosing. This is unlikely to be in the interests of the company as a whole. As mentioned above, there are adequate existing mechanisms available to shareholders to express their dissatisfaction with board decisions.

Cherry picking of proxies

The exposure draft proposes that all proxy holders (and not just the Chairman) be required to vote directed proxies on a poll (on any matter). The proposal is supposed to address concerns about proxy holders cherry picking which proxies they would vote – that is, voting some, but not all, proxies that they hold.

We query the need for, and value of, this proposal.

Shareholders are not required to attend and vote at a meeting. A shareholder who intends to attend a meeting and vote in a particular way may decide at the last minute not to attend or may be late and miss the meeting. However, the proposal would impose a duty on a proxy appointed by a shareholder to attend and vote in accordance with the directions provided. This is problematic, especially in the circumstances where there is no legal requirement for a proxy holder to consent to being appointed as a proxy or even to be aware of being appointed.

In our own case, we have implemented arrangements for shareholders to cast their votes before the meeting, in addition to their right to appoint a proxy to cast a vote at the meeting. A shareholder concerned about the risk of a proxy holder not attending or voting at a meeting may eliminate that risk by casting a direct vote before the meeting.

Persons required to be named in the remuneration report

We have no objection to the proposal to limit disclosure in the remuneration report to the KMP of the consolidated entity, rather than KMP plus the five highest paid officers. This will simplify the remuneration report, while acknowledging that the overwhelming majority of comments about remuneration reports focus on the CEO.

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I confirm that we have no objection to our submission being made public on the Treasury website.

Yours faithfully,

Tony Hudson
Company Secretary
ConnectEast Group