

Manager
Market Conduct Division
The Treasury
Langton Crescent
Parkes ACT 2600
By email: businesscomms@treasury.gov.au

30 October 2020

Making permanent reforms in respect of virtual meetings and electronic document execution

Dear Sir/Madam,

EOS at Federated Hermes is a leading stewardship provider, advising on US\$1.1tn of assets (as of 30 June 2020), on behalf of global international institutional investors. Our goals are to help people retire and invest better, to help clients achieve better risk-adjusted returns, and to contribute to positive outcomes that benefit the wider world. The views expressed in this communication are those of EOS and do not necessarily represent the views of all clients.

The current COVID-19 crisis reinforces our long-held belief that delivering positive societal outcomes for all stakeholders is critical to maintaining a social license to operate, which then enables long-term value creation. Since the pandemic, we have adapted our approach to engagement with companies and highlighted our priorities in a public letter published on the 15th April [\[LINK\]](#).

While the temporary relief measures which allowed virtual-only AGMs have been a necessity during the pandemic, it is essential to evaluate the impact the draft legislation, that would make this permanent, will have on the ability to exercise shareholder rights so we welcome the opportunity to provide comments.

Annual general meetings and other shareholder meetings are an important part of the governance process for companies. They provide a forum for shareholders to hear directly from the company about its performance and to challenge directors on important topics, bringing transparency and accountability to shareholders.

We would like to highlight the following:

A constructive exchange with company boards is essential for investors to properly exercise their fiduciary duty. We consider virtual-only AGMs to be appropriate for a temporary period and in extreme circumstances but would like to highlight the benefits of physical AGMs for shareholders to exercise their rights. Proposing motions and asking questions at AGMs in order to hold boards to account is central to these rights and this practice should be safeguarded. For retail investors, this is often the only time in the year where they can pose questions, ahead of casting their vote. We are concerned that virtual-only meetings, in which the company can choose which questions to answer from a pre-submitted pool, will be unsatisfactory for investors to properly exercise their voting rights by taking into account the answers of board members to specific questions when casting their vote. To ensure greater accountability and transparency, the draft legislation on permanent reforms proposes additional

enhancements. For example, companies will be required to include in the minutes for virtual meetings any questions or comments submitted before or during the meeting. We welcome these enhancements which should be incorporated into the temporary relief measures. However, this does not fully address our concerns.

We believe dialogue between shareholders and the board is enhanced by the in-person meeting format: it presents the opportunity to make points to the whole board, not just to one or two directors; the ability to ask questions spontaneously and to build on the questions asked by others is valuable; it is more difficult for directors to avoid difficult questions or topics; directors must provide answers in a public forum and, accordingly, be accountable for them.

For these reasons, we do not support the draft legislation that makes permanent the temporary relief. We hope that the COVID-19 pandemic will soon be under control to the extent that physical AGMs can take place while ensuring the safety of all participants. The temporary experience of Australian companies with virtual meetings should enable them to make physical AGMs more inclusive for shareholders going forward. We support a hybrid format of physical AGMs, where shareholders have the option to join the meeting via an online platform or to join in person, provided all shareholder rights are protected or enhanced.

Yours sincerely,

Pauline Lecoursonnois
Engagement
EOS at Federated Hermes