

Market Conduct Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: MCDproxyadvice@treasury.gov.au

17 May 2021

Dear Sir or Madam,

Thank you for the opportunity to provide feedback on the Greater Transparency of Proxy Advice Consultation Paper, April 2021.

Plato Investment Management (Plato) is a funds management operation based in Sydney. We manage in excess of \$10B of ASX listed equity investments together with international listed equity portfolios on behalf of our clients. We specialise in income generating strategies that aim to benefit retiree and superannuation investors and our clients include individuals, such as SMSFs, and institutional clients including superannuation funds.

Plato subscribes to proxy advisor research from both Institutional Shareholder Services and Ownership Matters. It may be insightful to briefly describe our approach to proxy voting and how we consume the research.

First we note that standard investment management agreements between large investors (superannuation funds, foundations, etc) and fund managers in Australia may delegate authority to vote proxies to the fund manager who has made the investment decision to invest in companies, although some clients will choose to vote proxies themselves or review potentially contentious proxies (eg, voting against company management recommendation).

In evaluating proxies, we use proxy advisor voting recommendations as a screen to identify items where either advisor is recommending a vote against company management's recommendations. Those items are then marked as contentious and are flagged for further scrutiny. The proxy advisor's rationale for the recommendation together with any comments from the company are both taken into consideration. Plato will engage directly with the company if we feel that is warranted or if the company reaches out to us. On every contentious item, regardless of whether we intend to vote in line with the advisor or with the company, a summary of the key facts and intended voting actions are circulated to our entire portfolio management team for discussion. Most of our institutional clients have visibility on the votes instructed via the voting platform. Those that don't have direct visibility have typically implemented other procedures for us to notify them with our rationale for contentious

items. And finally, our segregated mandate clients may override any of the votes we submit for their account if they disagree with our rationale.

At Plato, the process is transparent and has multiple layers of oversight. It is certainly not the case that advisor proxy voting recommendations are simply passed through to voting actions. Our voting actions are the result of an independent analysis, and often the actions taken will be at odds with at least one of our advisors' recommendations. We would expect other fund managers to have similar procedures in place, meaning that we believe the influence the proxy advisors have over voting outcomes is probably overstated in the consultation paper. Also, the suggestion that "large institutional investors may have limited capacity to engage with multiple sources of information in relation to each AGM" is not, in our experience, correct. There might be more than 2000 stocks listed on the ASX, but in our experience the investible universe for most large institutional investors and index funds is limited to only the largest 200 or 300 by capitalisation.

We have the following comments regarding the various options proposed in the consultation paper.

Option 1: Improved disclosure of trustee voting.

If an underlying investor within a superannuation fund would like detailed information on the fund's proxy voting activities, we see no compelling reason why that shouldn't be made available, although this will impose costs on the fund which will impact member net returns. It might not be necessary for this to be mandated though, as investors are free to switch between super funds and therefore free to select a fund which does provide detailed proxy voting disclosure.

The only issue we would anticipate is the potential for a minority cohort of investors to campaign on a particular cause and pressure the Trustee to vote a certain way on a related issue. The dilemma for the Trustee would be whether appeasing the vocal group would be at odds with the broader interests of all investors in the fund and maximising investment returns. The Trustee could then be faced with the burden of proving they acted in the best interest of investors.

We don't believe investors will value the details on whether proxy advice was received and whether the votes were consistent with the advice. If the votes are different to the advice will this be interpreted as a breach of policy or as a demonstration that the fund manager or Trustee is applying independent analysis to arrive at their voting decision? We don't believe meaningful conclusions can be drawn from a comparison between voting actions and advice received.

Option 2: Demonstrating independence and appropriate governance.

We agree that independence and governance are crucially important, however we don't see any issue here. The proxy advisors and superannuation funds they advise each hold AFS Licenses and are therefore bound by the requirement to manage their conflicts of interest. Furthermore, and as noted in the consultation paper, regardless of what advice a fund received the actual votes cast are "still a matter for the superannuation fund to ultimately determine how to exercise their voting rights."

Option 3: Facilitate engagement and ensure transparency.

The requirement for proxy advisors to provide their research to companies ahead of being distributed to clients is inconsistent with the distribution of other research that investors consume and would decrease the amount of time investors have to reach their voting decisions and is unnecessary. We believe it is unnecessary as we have not observed material errors in analysis that this proposal seems designed to combat. What we have seen with increasing frequency is companies producing and distributing responses to proxy advisor reports where they believe further explanation or rebuttal could influence investors to vote with management on contentious issues. This indicates to us that the proxy advisor analysts are, in fact, engaging with company management when contentious voting issues arise, albeit on a more case-by-case basis than this proposal prescribes.

We also believe that introducing an extra five-day window into the proxy voting process is unworkable. Proxy voting timetables are already very tight, involving a number of groups, including custodians who hold the stock on behalf of investors and ultimately send proxies to companies, proxy advisors, fund managers and investors such as large superannuation funds. Custodians often want proxy voting intentions to be made some days in advance of a company meeting, and AGMs tend to be clustered in just two distinct seasons, with the vast majority (June year end companies) occurring in a short period of time in the second half of the calendar year. Adding a further five-day review period into the process would likely lead to less scrutiny of voting intentions, less chance for investors such as ourselves to raise matters with companies and the likelihood that votes would miss voting cut-off dates.

The proposed process introduces three key risks. The first being that the independence between the research produced by the proxy advisor and the companies they are advising on becomes compromised. The second risk is the possibility of insider trading. Last is the risk that proxy votes miss cut-off dates and will not be counted.

Option 4: Make materials accessible.

This requirement is not necessary as any company can make their response to a proxy advisor report available to all investors using existing channels, e.g. via an ASX announcement.

Option 5: Ensuring advice is underpinned by professional licensing.

Both of our proxy advisors hold AFS licenses as do we understand the other proxy advisors noted in the consultation paper. Therefore, they are bound by the general obligations and code of conduct obligations as required by licensees. That includes the obligation to have adequate competence, knowledge and skills, together with ongoing annual training requirements. The act of providing recommendations to support AGM resolutions does not appear to be exempt from these obligations under the AFS licensing guide¹.

¹ ASIC, Regulatory Guide 104, *AFS licensing: Meeting the general obligations*, April 2020

We see no reason why the definition of a financial service should not cover advice on all types of proxy voting resolutions, and in that case no special licensing conditions would be required for proxy advisors as the general obligations together with the code of conduct obligations cover what we perceive to be the key regulations.

Response to consultation questions

7. How would the proposed options affect the level of engagement by proxy advisers with companies?

We believe any imposition of a time delay would negatively impact what is already a tight period for casting proxy votes given the number of parties involved. We actually think adding say 5 days to the process would lead to less engagement by parties other than the company, not more.

8. Would the proposed options mean that investors are more likely to be aware of a company's position on the proxy advice they are receiving?

We don't believe it is the proxy advisor's role to communicate what a company's position is, that is the role of the company itself.

9. What is the most appropriate method for proxy advisers to notify their clients as to where the company's response to its report is?

We don't believe it is the proxy advisor's role to communicate what a company's position is, that is the role of the company itself.

10. If proxy advisers were required to provide their reports to companies in advance of their clients, what would an appropriate length of time be that allows companies to respond to the report and for the report to be amended if there are any errors?

We don't believe there should be any lag between proxy advisors providing their reports to clients for the reasons discussed. The SEC approach where companies are provided the report at the same time as proxy advisors seems appropriate.

11. Are there any requirements that should be placed on companies during this period, such as confidentiality? Are there any requirements that should be placed on proxy advisers during this period, such as not making their recommendation otherwise publicly known?

Not applicable as we see no lag as appropriate.

12. Is the AFSL regime an appropriate licensing regime through which to regulate the provision of proxy advice?

Not applicable as our proxy advisors already hold an AFSL.

13. Would coverage under the AFSL regime result in an improvement in the standard of proxy advice?

No. Our proxy advisors already hold an AFSL.