20 January 2015

Dr Kathleen Dermody
Committee Secretary
Senate Economics Legislation Committee
Parliament House
CANBERRA ACT 2600

Submitted via online upload facility

Dear Dr Dermody

Inquiry into the Corporations Legislation (Deregulatory and Other Measures) Bill 2014

Thank you for your email of 5 December 2014 inviting the Financial Services Council (FSC) to make a submission to the Inquiry currently being undertaken by the Senate Economics Legislation Committee.

The Financial Services Council (FSC) represents Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks, licensed trustee companies and public trustees. The Council has over 125 members who are responsible for investing more than $2.3 trillion on behalf of 11 million Australians.

The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the third largest pool of managed funds in the world. The Financial Services Council (FSC) promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.

Introduction

The Financial Services Council welcomes the opportunity to provide feedback on the amendment to the Corporations Legislation Bill. FSC's members invest over $2.3 trillion dollars on behalf of 11 million Australians and so the changes in this Bill affect our members as institutional shareholders.

The FSC is supportive of this Bill and we have long been advocating for certain changes in the legislation. We will focus on Chapter 1 of the Bill as this is the most relevant to our members; however we are supportive of the other Chapters of the Bill as important deregulatory measures.

Removal of 100 members' ability to requisition general meetings

FSC supports this proposal and has made extensive submissions on the issue in previous consultation processes. We have argued that Australia is out of line with other jurisdictions on this issue. We have supported a blanket provision providing that 5% of shareholders may requisition a meeting.

FSC believes that security holders should be entities to deepen their engagement in investee entities but believe this amendment is a sensible change in terms of costs and benefits of the rule.

In cases where 100 members have called a general meeting, the resolution/s put forward were unable to pass as there was not an adequate level of support. In reality, this rule adds unnecessary costs without optimal outcomes. In the Parliamentary Joint Committee Inquiry on this issue, Treasury stated that the ability of relatively small groups of shareholders to impose the cost of an extraordinary general meeting (EGM) on companies gave them 'significant and undue leverage when negotiating with large companies'.

There are numerous examples where resolutions were not able to pass, while imposing significant costs on the company. Often the collective ownership of these shareholders is well below 1%. Accordingly, the FSC believes that the 5% threshold is more efficient and representative of ownership rights.

FSC has also supported retaining the provision that permits 100 shareholders to place an item on the meeting agenda. We consider this provides a balanced approach for minority shareholders to have issues considered by all shareholders without imposing unnecessary and substantial cost to the company.

Application to Managed Investment Schemes

Currently the '100 member rule' to request a general meeting applies to listed companies as well as unit holder meetings of Managed Investment Schemes (MIS). However the changes to this Bill only apply to listed companies.

We believe the changes to the Bill should also apply to unit holder meetings of MIS for the same reasons as for listed companies. 100 unit holders can currently call a general meeting while constituting a small percentage of the schemes' holdings. Applying the 5% threshold to MIS as well as listed companies will increase efficiency in terms of costs and benefits when calling unit holder meetings.

In order to address this we believe a change should be made to the Bill to include applicability to unit holder meetings of MIS.

Conclusion

We are supportive of the amendments to the Corporations Legislation Bill. However, we highlight that the changes should also apply to unit holder meetings of Managed Investment Schemes and would welcome the opportunity to discuss our submission and other Corporate Governance issues further in the future.

If you have any questions, please do not hesitate to contact Sara Dix

ANDREW BRAGG
Director of Policy and Global Markets