

Mitchells & Butlers plc

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18 March 2022

Mr Andrew Ninian
The Investment Association
Camomile Court
23 Camomile Street
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Dear Mr Ninian

Investment Association's Public Register

The AGM of Mitchells & Butlers plc took place on 25 January 2022 and there were four resolutions where 20% or more of votes were cast against the relevant resolution. These were:

- Resolution 2 (Annual Report on Remuneration);
- Resolution 5 (re-election of Eddie Irwin);
- Resolution 6 (re-election of Bob Ivell, Chairman); and
- Resolution 8 re-election of Josh Levy).

As requested by the Investment Association's Public Register process, we set out below our comments in relation to those four voting outcomes.

By way of setting the context for this statement in relation to those votes cast against the specific resolutions, the following may be helpful.

The UK Corporate Governance Code (the "**Code**") contains best practice recommendations in relation to corporate governance yet acknowledges that, in individual cases, these will not all necessarily be appropriate for particular companies. Accordingly, the Code specifically recognises the concept of "comply or explain" in relation to divergences from the Code which reflect the specific circumstances of individual companies.

We find it unfortunate that, although the Code specifically makes provision for divergences from a rigid and inflexible approach to compliance pursuant to the "comply or explain" process, some investors are apparently unable (or unwilling to try) to understand governance structures which do not adhere exactly to the letter of the Code. It is equally unfortunate that the specific circumstances





of individual companies, including Mitchells & Butlers plc, appear to be disregarded, even though the FRC specifically acknowledges, in its Introduction to the Code, that such an approach is not appropriate:

“The Code does not set out a rigid set of rules; instead, it offers flexibility through the application of Principles and through ‘comply or explain’ Provisions and supporting guidance. It is the responsibility of boards to use this flexibility wisely and of investors and their advisors to assess differing company approaches thoughtfully.”

Turning, then, to the four specific resolutions, our comments are set out below.

Resolution 2 (Annual Report on Remuneration)

We believe the vote against resolution 2 was due to the size of the restricted shares awards for the CFO in May 2021 and then in November 2021, compared to performance share awards granted in the past.

The rationale for setting the RSP award made in May 2021 at the level it was is clearly set out in the Remuneration Report. It was intended to recognise the pivotal role that he played in delivering, with very strong shareholder support overall, two refinancings. The first of these was a debt renegotiation in 2020 involving significant amendments and waivers of secured debt arrangements followed by the equity raise that completed in March 2021, both of which being necessary to secure the survival of the business. The equity raise was particularly complex as it encompassed not only the Open Offer but also a second round of refinancing of banking facilities and agreements for further amendments and waivers in relation to the secured debt financing. We regret that some institutional investors, who have, of course, seen the success of these refinancings, did not appear to be willing to acknowledge this point.

When considering the award levels for the FY 2022-24 period the Board felt strongly that maintaining the CFO’s award at 100% of pay was appropriate in the circumstances to recognise his continued very strong performance and importance in ensuring the full recovery of the business.

Resolutions 5 (Eddie Irwin) and 8 (Josh Levy)

We understand that the votes against these two resolutions were due to there being a belief that there is insufficient independence on the Board and apparent concerns about the presence of Mr Levy and Mr Irwin on the remuneration and nomination committees respectively.

Eddie Irwin is a shareholder representative of Elpida Group Limited and Josh Levy is a shareholder representative of Piedmont Inc. Both Elpida Group Limited and Piedmont Inc are members of the Odyzean Group which, as at the date of the Company’s AGM, held approximately 56.8% of the issued share capital of Mitchells & Butlers plc. It should, therefore, not come as a surprise that the holders of a substantial majority stake in the business wish to have significant representation on the Board.





The Company has explained the circumstances of the positions of Mr Levy and Mr Irwin on the Board and their committee roles in detail in its 2021 Annual Report.

We also refer you to the Prospectus for our Open Offer, which completed in March 2021, and which included the following statement:

“The Odyzean Group has indicated that, in order to streamline decision-making, it intends to review the composition of the Board, which may result in fewer independent Non-Executive Directors and less focus on compliance with the UK Corporate Governance Code recommendations in the future. In particular, the Odyzean Group has indicated that it will disregard specific corporate governance expectations around tenure and that it expects the Board to focus on retaining and acquiring skillsets amongst the independent Non-Executive Directors that are required to optimise the development of the business going forward.”

For more details on this issue, please see the specific section on page 54 of our Annual Report headed “Major shareholder Board representation and relationship agreement”. Consistent with the “comply or explain” regime, shareholders have patently had the benefit of a very clear explanation in the Company’s Annual Report as to why the Board believes these appointments to be appropriate.

There is also no indication of undue influence on the Board (as supported by the Relationship Agreement which has been put in place pursuant to Listing Rule 9.2.2).

Page 66 of our Annual Report emphasises the contribution of the shareholder representatives, and that their commitment is felt to be a significant factor in the ongoing stability of the Board, particularly as a result of the strong support of those shareholders of the Board’s long-term strategy. The shareholders in question were also very supportive of the Board’s actions when the Company had to deal with the forced closure of the business during the Covid-19 pandemic, followed by the need for an Open Offer, which they subscribed for in full.

We are also disappointed that, so far as the Company can see, no regard was paid by institutional investors to the decision of Mr Irwin to step down from membership of the Audit Committee and the Remuneration Committee during FY 2021.

Resolution 6 (re-election of Bob Ivell (Chairman))

We understand that the vote against Bob Ivell was the result of concerns about the composition of the Board, the perceived lack of female representation on the Board, and the fact that he has served on the Board for 10 years.

Again, these points were dealt with fully in the Annual Report.





The explanation of the fact that the Board includes representatives of the Odyzean Group (as referred to above) is repeated in this regard.

As regards gender diversity, it should be noted that at the time of preparation of our Annual Report, there were two female members of the Board. The decision of Susan Murray not to seek re-election, was made by her subsequent to the finalisation of that Annual Report.

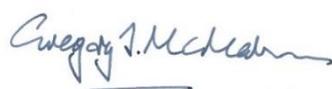
As referred to on page 70 in the Annual Report, the composition of the Board, including its gender balance, is dealt with by the Nomination Committee on a regular basis, and on the same page, the importance of having diversity on the Board, specifically including female representation, is clearly acknowledged. The Board Diversity Policy and progress against that policy are explained in the Annual Report on pages 70 and 71, including confirmation that any future appointments will continue to take into account diversity, not only in terms of gender but also in terms of the appropriate mix of skills and experience and that all Board appointments will always be made on merit.

In this context, however, perhaps it should be specifically noted that the Company announced on 4 March 2022 that it had appointed Ms Amanda Brown as a non-executive director and a member of each of the Audit Committee, the Nomination Committee and the Remuneration Committee, the last of which she will also chair. Ms Brown's appointments will be effective on 4 July 2022. The process for the recruitment of Ms Brown was well advanced at the time of our AGM but, of course, the Company was not at liberty to refer to it due to the need to respect the requirements of the Listing Rules as to the timing of announcements of Board appointments.

As regards the tenure of Mr Ivell, we refer you to the detailed assessment of this issue which was carried out by the Board, recognising his experience and its particular relevance to the Company in the extraordinary circumstances over the past two years which have been hugely impacted by Covid-19. This is clearly set out on page 66 of the Annual Report.

We acknowledge and accept that this letter should appear on the Investment Association's Public Register.

Your sincerely



Greg McMahon
Company Secretary and General Counsel
Mitchells & Butlers plc

