Triodos Investment Management

# FIRST SOLAR INC

| | | | | | |
|---|---|---|---|---|---|
| MEETING DATE | Wed, 17 May 2017 12:00 pm | TYPE | AGM | ISSUE DATE | Mon, 08 May 2017 |
| MEETING LOCATION | Virtual meeting via www.meetingcenter.io/257643858 | | | | |
| CURRENT INDICES | PIRC Global | | | | |
| SECTOR | Semiconductors and related devices | | | | |

| | PROPOSALS | ADVICE |
|---|---|---|
| 1.1 | **Elect Chairman Michael J. Ahearn**<br>Non-Executive Chairman since July 2012. Not considered independent owing to a tenure of over nine years. In addition, he previously served as the Company's CEO from August 2000 to September 2009, Interim CEO from October 2011 to May 2012 and Executive Chairman from October 2009 to December 2010 and May 2012 to July 2012. There is insufficient independent representation on the Board. | **Oppose** |
| 1.2 | **Elect Director Sharon L. Allen**<br>Independent Non-Executive Director.<br>She is chair of the Audit committee which is not fully independent which Triodos does not support. | **Oppose** |
| 1.3 | **Elect Director Richard D. Chapman**<br>Non-Executive Director. Not considered independent because he previously served on the Board of Managers of First Solar Holdings LLC prior to the Company going public. In addition, he is an executive of Walton Enterprises, Inc., which is affiliated with the Walton family, the Company's significant shareholders. Mr. Chapman received a 81.59% vote against his election in 2014. There is insufficient independent representation on the Board. | **Oppose** |
| 1.4 | **Elect Director George A. ('Chip') Hambro**<br>Non-Executive Director. Not considered independent because he previously served in various executive positions at the Company from 2001 to 2009, including Chief Operating Officer from February 2005 to May 2007. Mr. Hambro received a 44.25% vote against his election in 2014. There is insufficient independent representation on the Board. | **Oppose** |
| 1.5 | **Elect Director Craig Kennedy**<br>Non-Executive Director. Not considered independent owing to a tenure of over nine years. There is insufficient independent representation on the Board. | **Oppose** |
| 1.6 | **Elect Director James F. Nolan**<br>Non-Executive Director. Not considered independent owing to a tenure of over nine years. In addition, he served as an executive of a predecessor of the Company and worked as a part-time consultant for the Company from November 2000 until March 2007. There is insufficient independent representation on the Board. | **Oppose** |
| 1.7 | **Elect Director William J. Post**<br>Independent Non-Executive Director. | **For** |
| 1.8 | **Elect Director J. Thomas Presby**<br>Non-Executive Director. Not considered independent owing to a tenure of over nine years. There is insufficient independent representation on the Board. | **Oppose** |
| 1.9 | **Elect Director Paul H. Stebbins**<br>Non-Executive Director. Not considered independent owing to a tenure of over nine years. There is insufficient independent representation on the Board.<br>He is chair of the Nomination Committee and less than 20% of the Board are women which Triodos does not support. | **Oppose** |

**1.10 Elect Director Michael T. Sweeney** **Oppose**

Non-Executive Director. Not considered independent owing to a tenure of over nine years. There is insufficient independent representation on the Board.

He is chair of the Remuneration committee which is not fully independent which Triodos does not support.

**1.11 Elect Mark R. Widmar** **For**

Chief Executive Officer.

**2 Appoint the Auditors** **Oppose**

PwC proposed. Non-audit fees represented 9.67% of audit fees during the year under review and 8.26% on a three-year aggregate basis. This level of non-audit fees does not raise serious concerns about the independence of the statutory auditor. The current auditor has been in place for more than seven years. There are concerns that failure to regularly rotate the audit firm can compromise the independence of the auditor.

Triodos opposes this resolution.

**3 Advisory Vote on Executive Compensation** **Oppose**

The Company has submitted a proposal for shareholder ratification of its executive compensation policy and practices.

The Company has achieved a below average balance for rewards. Rewarded CEO pay was not in line with peer group averages, although in line with the average of companies of a similar market capitalisation. The annual bonus awarded was in line with best practice, which was capped at 200% of base salary. However, the long-term incentive is considered excessive and is not in line with best practice, which considers that variable pay should be capped at 400% of base salary (200% for the annual bonus and 200% for the long-term). RSUs have no performance conditions and vest in four equal instalments beginning on the first anniversary of the grant, which is not considered best practice as it does not link pay with company performance. From fiscal 2017 PRSUs will be awarded, subject to a three-year performance period. However, the Company has not disclosed the balance of RSUs and PRSUs in how they will be awarded.

The voting outcome for this resolution reflects the balance of opinion on the adequacy of disclosure, the balance of performance and reward and the terms of executive employment. The compensation rating is: CDB. Based on this rating, Triodos opposes this resolution.

**4 Approve the Frequency of Future Advisory Votes on Executive Compensation** **1**

The Company is providing shareholders with an advisory vote on whether the advisory vote on executive compensation should be held every one, two or three years. The Board is required by Section 951 of The Dodd-Frank Wall Street Reform and Consumer Protection Act to offer this vote on the frequency of a say-on-pay proposal not less than every six years, although they have the option to offer this proposal more often.

The Board of Directors recommends an annual vote. It is considered that an annual vote on executive compensation is best practice for companies. Executive compensation comprises both fixed and variable pay elements, with the variable including share based incentive awards and cash bonuses over which the compensation committee have discretion. Decisions affecting the quantum and design of variable pay are made annually by the committee and it is therefore appropriate that shareholder approval is sought at the maximum frequency permitted by the new legislation. Contentious compensation payments and issues could occur in the intervening years between votes, if the frequency is less than annually. Triodos recommends a one year frequency.

---

## SUPPORTING INFORMATION FOR RESOLUTIONS

### Proposal 3 - Advisory Vote on Executive Compensation

**Disclosure: C** - The overall disclosure is an average level with specific targets for both annual and long-term incentive plans. Annual cash incentives are based on cost per watt (30%), operating expense (OPEX) (20%) and sales metrics (50%). The Company granted long-term incentives solely in the form of time-based restricted stock units (RSUs). However, the Company has from fiscal 2017 implemented performance-based restricted stock units (PRSUs) into the long-term awards.

**Balance: D** - The Company has achieved a below average balance for rewards. Rewarded CEO pay was not in line with peer group averages, although in line with the average of companies of a similar market capitalisation. The annual bonus awarded was in line with best practice, which was capped at 200% of base salary. However, the long-term incentive is considered excessive and is not in line with best practice, which considers that variable pay should be capped at 400% of base salary (200% for the annual bonus and 200% for the long-term). RSUs have no performance conditions and vest in four equal instalments beginning on the first anniversary of the grant, which is not considered best practice as it does not link pay with company performance. From fiscal 2017 PRSUs will be awarded, subject to a three-year performance period. However, the Company has not disclosed the balance of RSUs and PRSUs in how they will be awarded.

**Contract: B** -The Company has achieved a market best practice approach to contracts with executives. The Company has a compensation claw back policy in place, as well as a double trigger provision for the vesting of equity in the event of change of control. Furthermore, upon termination, cash severance is limited to 300% of base salary, which is considered best practice.

**For Private Circulation only**



Researcher: Sofie Larsen
Email: pircresearch@pirc.co.uk



PIRC

Pensions & Investment Research Consultants Limited
8th Floor, Suite 8.02, Exchange Tower
2 Harbour Exchange Square
E14 9GE

Tel: 020 7247 2323
Fax: 020 7247 2457
http://www.pirc.co.uk

**Regulated by the Financial Conduct Authority**