

By email: codereview@frc.org.uk

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Dear Mr Hodge

Response to the FRC Consultation Document: Gender Diversity on Boards

Jupiter Asset Management Limited (Jupiter) manages assets for a range of institutional and private clients. It is a subsidiary of Jupiter Fund Management plc and manages both segregated and pooled pension funds, charities and assets for investment companies. It also acts as Investment Adviser for the Jupiter range of unit trusts and SICAVs.

Jupiter notes the publication of Lord Davies's report **Women on Boards**, in February 2011, which made a number of practical recommendations including:

- FTSE 100 boards should aim for a minimum of 25% female representation by 2015.
- All Chairmen of FTSE 350 companies should set out the percentage of women they aim to have on their boards in 2013 and 2015 and all Chairmen should announce their aspirational goals by September 2011.
- All Chief Executives should review the percentage of women they aim to have on their Executive Committees in 2013 and 2015.
- Quoted companies should be required to disclose each year the proportion of women on the board, women in senior executive positions and female employees in the whole organisation.

Importantly, the report highlighted the critical role investors play in engaging with company boards and stated that investors should pay close attention to the report's recommendations when considering company reporting and appointments to the board.

Given the slow progress made towards gender diversity in the UK, we welcome the opportunity to comment on the FRC Consultation Document: Gender Diversity on Boards. We are supportive of measures which will continue to fine tune the existing corporate governance framework to improve its effectiveness.

Our response to the matters on which the FRC is seeking views is set out in the pages that follow.

Please contact me if you would like clarification on any of the points in this letter or if you would like to discuss any issues further.

Yours sincerely



Emma Howard Boyd
Head of Sustainable Investment and Governance
Director, Jupiter Asset Management

The FRC seeks views on whether further changes to the Code are needed in order to help achieve more diverse and more effective boards. If so, what these changes should be. The consultation document includes some draft revisions to the Code on which comments are sought.

We note the statements in Lord Davies' report regarding the strong business case for balanced boards and that "inclusive and diverse boards are more likely to be effective boards, better able to understand their customers and stakeholders and to benefit from fresh perspectives, new ideas, vigorous challenge and broad experience". We consider that a number of changes should be made to the UK Corporate Governance Code to give effect to Lord Davies' recommendations.

The changes we consider necessary to the Code are shown below, highlighted in bold:

B1 Composition of the Board

We suggest that the Main Principle be strengthened as follows:

"The board and its committees should have the appropriate balance of skills, experience, **diversity of background and gender**, independence and knowledge of the company to enable them to discharge their respective duties and responsibilities effectively."

Supporting Principle B.2

We would suggest that the Supporting Principle B.2 be strengthened as follows:

"The board should satisfy itself that plans are in place for orderly succession for appointments to the board and to senior management so as to maintain an appropriate balance of skills, experience and **diversity, including gender**, within the company and on the board and to ensure progressive refreshing of the board."

Code Provision B.2.2

We suggest that the B.2.2 be strengthened as follows:

"The nomination committee should evaluate the balance of skills, experience, independence, **diversity** and knowledge on the board and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment."

We also draw your attention to the 2010 amendments to the Australian Securities Exchange's Corporate Governance Principles and Recommendations which provide some useful guidance under recommendation 2.4 on **Selection and appointment process and re-election of directors**. We believe similar guidance could be helpfully reflected in Code Provision B.2.2.

http://www.asx.com.au/documents/about/cg_principles_recommendations_with_2010_amendments.pdf

"Recommendation 2.4 - Selection and appointment process and re-election of directors

A formal and transparent procedure for the selection, appointment and re-appointment of directors to the board helps promote investor understanding and confidence in that process.

Important issues to be considered as part of the process include:

• Disclosure of board selection processes - companies are encouraged to provide greater transparency of the processes which the board adopts in searching for and selecting new directors to the board and to report to shareholders on the processes. Such reporting could include the following:

- details as to whether the company develops a board skills matrix and uses this matrix to identify any 'gaps' in the skills and experience of the directors on the board*
- the process by which candidates are identified and selected including whether professional intermediaries are used to identify and/or assess candidates*
- the steps taken to ensure that a diverse range of candidates is considered*
- the factors taken into account in the selection process."*

Code Provision B.2.4

We suggest that the B.2.4 be strengthened as follows:

“A separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments. This section should include a description of the board's policy on gender diversity [delete: in the boardroom], including any measurable objectives that it has set for implementing the policy and progress on achieving these objectives. **An explanation should be given if progress towards these objectives is not achieved, alongside proposals which demonstrate how they will be met in future. In order to promote orderly succession to senior management, the policy should include specific reference to the creation of a pipeline within the company to support the achievement of meaningful diversity within this group.** An explanation should **also** be given if neither an external search consultancy nor open advertising has been used in the appointment of a chairman or a non-executive director.”

Again we draw your attention to the 2010 amendments to the Australian Securities Exchange's Corporate Governance Principles and Recommendations which provide some useful guidance on the content of a diversity policy (Box 3.2: Suggestions for the content of a diversity policy).

http://www.asx.com.au/documents/about/cg_principles_recommendations_with_2010_amendments.pdf

“Box 3.2: Suggestions for the content of a diversity policy

Companies may find it useful to consider the following matters when formulating a diversity policy:

- 1. Commitment to diversity and articulation of the corporate benefits arising from employee and board diversity and the importance of benefiting from all available talent. This should promote an environment conducive to the appointment of well qualified employees, senior management and board candidates so that there is appropriate diversity to maximise the achievement of corporate goals.*
- 2. Commitment to and identification of ways to promote a corporate culture which embraces diversity when determining the composition of employees, senior management and the board, including recruitment of employees and directors from a diverse pool of qualified candidates.*
- 3. Identification of factors that should be taken into account in the selection processes and whether professional intermediaries should be used to identify or assess candidates.*
- 4. Identification of programs that assist in the development of a broader pool of skilled and experienced board candidates including initiatives focused on skills development such as executive mentoring programs or more targeted practices relating to career advancement such as those that develop skills and experience that prepare employees for senior management and board positions.*
- 5. Articulation of a corporate culture which not only supports workplace diversity but also recognises that employees at all levels of the company may have domestic responsibilities.*
- 6. Transparency of board processes, review and appointments.*
- 7. The extent to which the achievement of measurable objectives should be tied to Key Performance Indicators for the board, the CEO and senior executives.”*

The FRC also asks for views on whether a new supporting principle on board evaluation is desirable and, if so, on the proposed wording which is:

“Evaluation of the board should consider the balance of skills, experience, independence and knowledge of the company on the board, the board's policy on gender diversity, how the board works together as a unit, and other factors relevant to its effectiveness.”

Jupiter believes that regular board evaluation to assess the effectiveness of the board is beneficial and should be led by the chairman. We strongly support the addition of a new supporting principle on board evaluation as set out in the consultation document. Jupiter believes that companies should also be encouraged to include within their annual reports details of how the insights gathered from the board review have resulted in a clear action plan for the year ahead.

The FRC asks for views on when, if changes are made to the Code, these should come into effect.

There are three options:

- the revised Code would apply to accounting periods beginning on or after 29 June 2011. If the new provisions took effect from the date of the revised Code they would have to apply retrospectively although companies would not report against them until 2012;*
- the revised Code would take effect as the same time as any government regulations are made to implement Lord Davies' recommendations, at the earliest on 1 October 2011 or 1 April 2012;*
- the revised Code would apply for accounting periods on or after 29 June 2012 and so companies would not be required to report against the revised Code until 2013.*

Jupiter encourages the FRC to implement these changes as soon as possible and therefore supports the first option.