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BY POST & EMAIL

05 March 2018

Dear Catherine,

Proposed Revisions to the UK Corporate Governance Code

Please find attached our answers to the questions within your document containing the proposed revisions to the Code. These answers are the views of Standard Life Aberdeen, as a listed entity, and its investment arm, Aberdeen Standard Investments, which is a major global asset management firm with assets under management of £569.7bn (as at 30/9/17).

In addition to the answers we have provided, we would also highlight that we are supporters of high standards of corporate governance and stewardship and have taken active roles as, Aberdeen Asset Management and Standard Life Investments, in encouraging the development of codes in the UK and in markets around the world.

We believe that the UK Codes have successfully raised standards in the UK, but, as envisaged when they were put in place, they are now in need of review and update in order to further raise standards and address issues relating to governance and stewardship that have become apparent. Although change is needed we believe that the core concepts of the Codes need to remain. These include:

- The Corporate Governance Code should be a high level statement of principles with guidance rather than deeply prescriptive and we endorse the shortening and sharpening of the code to create a more clear and concise document.
- The Corporate Governance Code should continue to use comply or explain as a methodology to demonstrate how the defined principles are achieved. However, we would encourage companies to provide more intelligent explanations of their achievement of the principles rather than blind compliance.
- The Corporate Governance and Stewardship Codes work in tandem and their success relies on corporate boards and institutional investors being accountable for the roles that they play.

Should you need any further clarity on our input or wish to discuss our views in more detail please do not hesitate to contact me.

Yours sincerely

[redacted]

Mike Everett
Governance & Stewardship Director
Aberdeen Standard Investments

Standard Life Aberdeen/Aberdeen Standard Investments

2018 Corporate Governance Code Review Input

Q1. Do you have any concerns in relation to the proposed Code application date?

Applying the new code from accounting periods starting on or after 1 January 2019 means that the first changes we would see in reporting terms would be Q1 2020. We would encourage companies to seek to make relevant changes as soon as practical, whilst recognising that it may take time for companies to develop effective compliance and reporting processes against some of the new code requirements.

Q2. Do you have any comments on the revised Guidance?

No. We presume it will be used in partnership with the revised Code.

Q3. Do you agree that the proposed methods in Provision 3 are sufficient to achieve meaningful engagement?

We recognise that the government has proposed three mechanisms by which companies can demonstrate compliance with the requirement to consider the views of employees as stakeholders. Although these are three methods that could be used we would prefer that no specific methodologies were put forward as demonstrating compliance. We do welcome provision 4 which requires a board to explain how it has considered the interests of its workforce rather than simply noting compliance by fulfilling one of the three mechanisms detailed in provision 3. We would suggest that provision 3 be changed as per below.

'This ~~would normally~~ could be through a director appointed from the workforce, a formal workforce advisory panel or a designated non-executive director.'

Q4. Do you consider that we should include more specific reference to the UN SDGs or other NGO principles, either in the Code or in the Guidance?

We agree with the inclusion of Principles A and C highlighting the responsibility of the board for having regard for stakeholders and the company's impact on the environment. It is important that boards find ways of assessing and reporting on these aspects and the SDGs would be a good framework on which boards could base their assessment of a company's impact on the various aspects of the sustainable development goals. We would also highlight that the UN Global Compact and the Global Reporting Initiative (GRI) which are more aligned to how companies can act responsibly in managing risks in relation to broader society and the environment. Boards should consider how best to communicate how they have handled these aspects of their responsibilities and using a well-defined global framework would benefit users of this information.

Q5. Do you agree that 20 per cent is 'significant' and that an update should be published no later than six months after the vote?

Yes.

However we would also suggest that there is additional expectation placed on companies where they receive a vote of more than 50% against an advisory remuneration report resolution.

Q6. Do you agree with the removal of the exemption for companies below the FTSE 350 to have an independent board evaluation every three years? If not, please provide information relating to the potential costs and other burdens involved.

Yes, we agree with the removal of this exemption. An external review is beneficial to the operation of the board and gives an opportunity for all members to present their views on the operation of the board to an external entity. Companies should be able to find a suitable external entity to undertake such a review at a cost commensurate with the size of the company and the board.

Q7. Do you agree that nine years, as applied to non-executive directors and chairs, is an appropriate time period to be considered independent?

Yes. Particularly as companies can explain their choice and they may have to adjust the composition of the board to ensure that a majority are independent. The inclusion of the chair in the assessment of independent members on a board is a significant change. The current and previous code require the chair to be independent on appointment only and then excludes him or her from the analysis of independent members on a board due to the time commitment, and his or her involvement in the detailed business of a company. Although we are comfortable for nine years to be used when considering independence the reason for this measure is to encourage appropriate turnover on the board. As a baseline we consider nine years to be an appropriate measure to encourage board refresh but we strongly believe that companies need to be given the flexibility by shareholders to explain situations where a longer tenure is appropriate, particularly when applied to the position of chair. For multi-national complex businesses, it may take several years for a NED to become fully effective, and if such a Director then goes on to be a potential chair, limiting his/her total term of service to nine years, in terms of independence, may result in an unnecessarily high turnover. We would therefore suggest that the requirement for flexibility is embedded in the principles so that shareholders and proxy voting advisers do not blindly apply a nine year maximum tenure to all independent NEDs.

Q8. Do you agree that it is not necessary to provide for a maximum period of tenure?

Yes, but as above it is our view that companies should adjust the composition of the board to retain a majority of independence.

Q9. Do you agree that the overall changes proposed in Section 3 of the revised Code will lead to more action to build diversity in the boardroom, in the executive pipeline and in the company as a whole?

Companies' commitment to diversity and inclusion should be in the broadest sense, looking to build and sustain a diverse pipeline of talent, enabling their people to reach their potential and build long-term careers, valuing everything they bring. Gender has been a key priority, as it was clear that the representation of women was not where it should be, and that improving that representation would positively impact inclusion more generally. Companies should focus on understanding the factors which are inhibiting progress on the levels of diversity and increase the transparency of how they report relevant factors and progress both internally and externally. We welcome that the revised *code encourages boards to intensify their efforts on diversity in the broadest sense which mitigates 'group think' in board decision making.*

Although the various initiatives that have been in place in the recent past have yielded some success in improving the levels of gender diversity on boards, it is now time to hold boards and management to account for embedding diversity in the decisions and actions taken within the business, for instance those relating to performance, talent, recruitment and redundancy. We believe that Principle J and Provisions 17 and 23, increase the disclosure of actions taken and clarifying the responsibility of nomination committees in the Corporate Governance Code is a step forward. It will allow investors and other stakeholders to assess the importance placed by boards on these topics and demonstrate success in improved outcomes in relation to diversity.

We think that the overall changes in Section 3 of the revised Code are appropriate to further build diversity in the board room, the executive pipeline and the company as a whole. However, we would encourage that the code stipulates that companies should disclose information about the initiatives they have in place to address diversity sustainably, as research indicates that there are three 'game changers' for sustainable change: CEO commitment, holistic transformation programmes and persistency of those programmes (McKinsey Global Research, 2016 "Women Matter" series of research).

Q10. Do you agree with extending the Hampton-Alexander recommendation beyond the FTSE 350? If not, please provide information relating to the potential costs and other burdens involved.

Yes. It will take consistent effort across all sectors and company size to roll up to the outcomes that are needed in the UK. It has been said at a number of events that to meet the target of 33% women on boards by 2020, about 40% of the roles in the next 3 years will need to go to females. It is proven that gender diversity leads to better board and management outcomes and therefore all boards should be expected to seek the optimal board and management make up. We would note that as well as an increased number of women on boards we expect to see more female appointments to Senior Independent Director and Chair roles. It is also important that across the FTSE 350 we see an increase of women in the executive pipeline.

We are also supportive of using the definition of 'senior managers' in the Hampton-Alexander recommendations as this will bring much needed consistency and transparency to disclosure of diversity below board level.

Q11. What are your views on encouraging companies to report on levels of ethnicity in executive pipelines? Please provide information relating to the practical implications, potential costs and other burdens involved, and to which companies it should apply.

We are unable to assess the costs of such reporting, but we do believe that encouraging companies to collect and report on this data creates an incentive for the board to better understand the current position in their company. Public disclosure will allow stakeholders to make enquiries of the board and to hold them to account to take action on broader diversity.

We would highlight the following challenges. It is currently difficult to report on levels of ethnicity as this data relies on employees 'self-reporting' their ethnicity. As with other protected characteristics beyond gender the data held on people in this area is less than complete. Indeed global companies *may be hampered in certain countries where the collection of such data is restricted through legislation.*

We believe that boards should be encouraged to ensure that they identify and address any issues that impact on appropriate diversity in their company and as a starting point this will require an improvement in data and reporting. Disclosure in a transparent manner on these matters is necessary for them to demonstrate the actions taken and any outcomes delivered.

We would highlight that the board's analysis should seek to understand the experience of ethnic minority employees in the company and not just the numbers of employees in certain groups.

Q12. Do you agree with retaining the requirements included in the current Code, even though there is some duplication with the Listing Rules, the Disclosure and Transparency Rules or Companies Act?

Yes. There are an increasing number of companies that may not be subject to the Companies Act (i.e. overseas companies listed in London) or the Listing Rules (i.e. AIM listed companies). We believe strongly that it is important that the Code does apply to these firms even though the requirements may be duplicated and repeated for certain companies. We feel the impact on companies would be negligible.

Q13. Do you support the removal to the Guidance of the requirement currently retained in C.3.3 of the current Code? If not, please give reasons.

Yes we are comfortable with this and agree that the Terms of reference for all committees should be made available.

Q14. Do you agree with the wider remit for the remuneration committee and what are your views on the most effective way to discharge this new responsibility, and how might this operate in practice?

We agree with the wider remit of the committee and for it to be able to explain how executive remuneration is aligned with strategy, culture and values as well as the remuneration of the broader workforce. When defining executive pay policies, remuneration committees should already be basing these on strategy and desired cultural outcomes. They should also be assessing the terms of pay across the workforce to ensure that none encourage behaviours that are out of line with culture and values and they should relatively easily be able to assess employee views on the executive pay policy and how it is also aligned with these same aspects.

Q15. Can you suggest other ways in which the Code could support executive remuneration that drives long-term sustainable performance?

Care must be taken in being too prescriptive in types of pay structures and their suitability. Remuneration Committees must be held to account for developing pay structures that are well thought out and that demonstrably incentivise executive performance that is aligned with delivering the company's strategy in line with the board's defined values and behaviours. The code makes it clear that the responsibility does lie with the remuneration committee and the Board we do not believe further prescription would be useful at this time.

Q16. Do you think the changes proposed will give meaningful impetus to boards in exercising discretion?

It has been made clear that it is expected discretion should be used where outcomes are not backed up by overall performance. We believe that it is imperative for directors to act in situations where outcomes are not backed up by performance or where they are different from those intended. If directors are constrained from using discretion we wonder how they will be able to exercise their duties. It is also important that where discretion is used, clear explanations and justifications are provided.

Q17. Should the Stewardship Code be more explicit about the expectations of those investing directly or indirectly and those advising them? Would separate codes or enhanced separate guidance for different categories of the investment chain help drive best practice?

We believe that there is already significant definition of expectations along the investment chain. For instance the requirement for pension funds to disclose how they handle ESG factors in their Statement of Investment Principles (SIP) and also in the report by the Law Commission on fiduciary duty which includes significant analysis of the responsibilities of pension fund trustees. The European amendments to the Shareholder Rights Directive (SRD II) also introduces requirements of transparency for institutional investors, including pension funds, and asset managers. The concept of stewardship is clear and is consistent across the whole investment chain. Pension funds and other asset owners have a role to play in encouraging the asset managers who they appoint to engage effectively with and hold to account the companies in which they invest on behalf of their clients. As the desired outcome is the same and each party along the chain fulfils part of delivering this outcome, it does not seem appropriate to have separate codes. It would simply add complexity and imply that different outcomes are being sought.

If any differentiation is needed the guidance could be used to indicate different expectations along the investment chain.

Q18. Should the Stewardship Code focus on best practice expectations using a more traditional 'comply or explain' format? If so, are there any areas in which this would not be appropriate? How might we go about determining what best practice is?

It is preferable that parties on the investment chain explain how they achieve their stewardship responsibilities rather than have standards against which they self-assess their achievement or otherwise explain. As seen with the Corporate Governance Code there is relatively little assessment of non-compliance and so reporting tends to be sparse. The ideal would be to encourage much better dialogue along the investment chain through high standards of transparency allowing parties to hold those responsible for action to be held to account. Encouraging public transparency will allow best practice to be identified and called out encouraging others to follow suit.

Q19. Are there alternative ways in which the FRC could highlight best practice reporting other than the tiering exercise as it was undertaken in 2016?

We question whether it would be the FRC's role to undertake further tiering exercises as a result of SRD. The stewardship code is already part of financial services regulation through the FCA handbook. Being a signatory to the stewardship code remains voluntary and as such should be undertaken by *those who wish to achieve high standards and possibly best practice. In order to implement the SRD we believe the requirements should be included in the regulations applying to the relevant party. For example FCA rules for asset managers and insurance companies and pension fund regulations for pension fund trustees. The implementation of the SRD concerns meeting regulations rather than achieving best practice. The FCA and the pension regulator should put in place appropriate supervision to ensure these entities meet the required standards of the SRD. It is not appropriate to introduce the FRC as an additional regulator of asset managers, insurance companies and pension fund trustees.*

Q20. Are there elements of the revised UK Corporate Governance Code that we should mirror in *the Stewardship Code?*

The Corporate Governance and Stewardship Codes are used in tandem by investors in their work on holding companies to account. The purpose of both of the codes is to promote long term success of companies. The Corporate Governance Code identifies areas of focus and best practice that are deemed to be the ones that, if managed accordingly, will promote long term corporate success. The Stewardship Code uses principles to direct institutional investors to the practices that will help ensure that companies deliver against the Corporate Governance Code thus improving the chances of long term success. Investors refer to the requirements of the Corporate Governance Code in their work and therefore it is not necessary to repeat elements of the Corporate Governance Code in the Stewardship Code.

Q21. How could an investor's role in building a company's long-term success be further encouraged through the Stewardship Code?

The Stewardship Code should encourage investors to disclose in a transparent manner how their investment process and decision making encourages company management and boards to make decisions aligned with promoting sustainable success. This would include a description of their policies relating to capital investment, dividend payments, share buy backs, remuneration, corporate reporting and accounting practices which companies may use for short term gain without regard to the impact on the company in the long term. Clear disclosure of these policies and reporting on engagement and voting on these matters will allow clients and the public to assess how individual investors, particularly asset managers, have delivered as Stewards. It is for clients and the public to hold asset managers to account on these matters. There must be flexibility to allow different styles, but clients must be able to assess these differences in selecting managers.

Q22. Would it be appropriate to incorporate 'wider stakeholders' into the areas of suggested focus for monitoring and engagement by investors? Should the Stewardship Code more explicitly refer to ESG factors and broader social impact? If so, how should these be integrated and are there any specific areas of focus that should be addressed?

Section 172 of the Companies Act describes some of the duties of a director of a company. It particularly introduces the concept of promoting success, but with regard to the likely consequences in the long term and the interests of and impact on broader stakeholders. Shareholders should expect that directors are aware of and can demonstrably be seen to meet their duties. Section 172 is now receiving significant interest due to the concerns about short term decision making and perceived lack of consideration of broader stakeholders. However we believe that it is important for boards to *be able for disclose how they achieve all of their directors' duties. Consideration and reporting on Section 172 is of particular importance in such reporting and boards should consider how best to disclose the important matters in relation to their duties in this area allowing shareholders and other stakeholders to understand how their duties are achieved and where necessary to challenge and engage boards on their performance of these duties. We believe that the stewardship code should explicitly highlight the need for investors to hold companies and boards to account in achieving their duties and the management of any risks relating to ESG factors and social impact. We would encourage companies to base reporting in these areas on a global framework such as the Global Reporting Initiative (GRI), the UN Global Compact or considering the Sustainable Development Goals (SDGs). We would suggest that the Stewardship Code encourages investors to engage on these matters and the Corporate Governance Code should encourage companies to use a well-defined global framework, such as those mentioned above, as a basis for their disclosure which will allow investors to undertake meaningful analysis and comparison.*

Q23. How can the Stewardship Code encourage reporting on the way in which stewardship activities have been carried out? Are there ways in which the FRC or others could encourage this reporting, even if the encouragement falls outside of the Stewardship Code?

The SRD will require the implementation of regulations which will require pension funds, insurance companies and asset managers to report on voting outcomes and engagement. We suggest that the implementation occurs within the appropriate regulatory framework. The FCA handbook contains details of the requirements for occasional and periodic client reporting; this could be used to include information relating to voting and engagement. As indicated in the consultation, the FRC is not able to make such requirements of asset managers, but this could be done by including them in the duties and requirements in the FCA Handbook. It is after all part of the asset management services being provided to clients, therefore why should it not be reported on accordingly.

Q24. How could the Stewardship Code take account of some investors' wider view of responsible investment?

We believe that the purpose of the Stewardship and Corporate Governance Codes is, and should continue to be, encouraging the promotion and delivery of long term corporate success. There are many other frameworks designed to allow the demonstration of responsible investment which are often very similar to the principles of stewardship in the code. However, the Corporate Governance Code allied to the Stewardship Code brings particular strength to delivering the purpose of long term successful companies which could be diluted by introducing other outcomes.

Q25. Are there elements of international stewardship codes that should be included in the Stewardship Code?

There are multiple stewardship codes around the world issued by markets and member associations. Although mostly similar in detail, each have nuances designed to address particular issues that policy makers seek to address, for instance stock lending in Holland, dividends and share buy backs in the UK, or to provide assistance to members of an association in achieving certain standards of practice. We would suggest that the FRC does not set out to cherry pick standards from around the world, but to develop the code that best suits the UK market and can be demonstrated to policy makers and society in the UK to deliver the long term successful companies that are needed.

Q26. What role should independent assurance play in revisions to the Stewardship Code? Are there ways in which independent assurance could be made more useful and effective?

Assurance can be an important factor to give clients comfort that asset managers do achieve the standards and principles that they say they achieve. Asset managers in the UK commonly prepare an ISAE 3402 Internal Controls Report which will normally include assessment of controls relating to voting and engagement. This report is prepared by external audit providers and gives assurance over the design and operation of a company's internal controls. This process could be used to demonstrate the achievement of the Stewardship Code principles. Currently some firms obtain a separate audit of the Stewardship Code statements. We believe this adds little value as it simply tests whether the firm undertakes the actions detailed in their Stewardship Code statements. Such assurance does not comment on the adequacy of the statements or the actions being undertaken. The ISAE process is more challenging as it requires the external auditor to comment on the adequacy of design as well as the controls themselves.

Q27: Would it be appropriate for the Stewardship Code to support disclosure of the approach to directed voting in pooled funds?

There would seem to be no reason why asset managers would not include a statement about directed voting in pooled funds in their Stewardship Code statements. Disclosure should allow pooled fund investors to understand the services that managers will provide and this should include details of any directed voting services in pooled funds. Many asset managers that integrate stewardship activities with their investment process need to align their voting decisions with their engagement and investment views and so do not offer pooled fund investors the opportunity to direct voting instructions. Disclosures by managers should allow investors to clearly understand how managers implement the shareholder rights that they exercise on behalf of clients.

Q28: Should board and executive pipeline diversity be included as an explicit expectation of investor engagement?

As indicated in our answer to question 20 we believe that the Corporate Governance Code and Stewardship Codes work in tandem. The fact that the Corporate Governance Code update includes increased reference to board diversity should be sufficient to make this an important part of their engagement with companies. Investors' engagement needs to address, amongst other topics, how companies meet the requirements of the code. There are already a number of initiatives such as the 30% Club Investor Group and their Statement of Intent which demonstrate that gender diversity is seen as a long term investment stewardship issue.

Q29: Should the Stewardship Code explicitly request that investors give consideration to company performance and reporting on adapting to climate change?

Climate change is one risk factor that may form part of an investor's analysis of environmental and social factors faced by a company. It is an important aspect of E & S analysis but not the only aspect. We believe that the Stewardship Code should encourage high standards of engagement relating to ESG factors but should not single out sub-categories of environmental or social risks.

Q30: Should signatories to the Stewardship Code define the purpose of stewardship with respect to the role of their organisation and specific investment or other activities?

The role of stewardship should be defined in the code itself. It is our belief that, when applied to the definition of an institutional investor, it relates to the creation of companies that are successful over the long term. It drives the behaviours of those who allocate capital to engage with the companies to which capital is allocated in a manner that encourages them to deliver long term success and that considers wider stakeholders, society and the environment. We believe that by referring to one aspect of environmental risk (or any other individual risk) would be to the detriment of other aspects that should also be considered.

Q31: Should the Stewardship Code require asset managers to disclose a fund's purpose and its specific approach to stewardship, and report against these approaches at a fund level? How might this best be achieved?

The disclosure requirements for particular funds should be handled in the reporting requirements contained in the FCA handbook. This defines the information that should be provided to investors and any requirements for inclusion of details relating to a fund's purpose and particular investment styles should be included in these reports.