Norges Bank
Investment
Management

Financial Reporting Council
8th floor
125 London Wall
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London

Date: 13.09.2023

Consultation on the revision of the UK Corporate Governance Code

We refer to the Financial Reporting Council's consultation on the revision of the UK Corporate Governance code. We appreciate the opportunity to contribute our investor perspective.

Norges Bank Investment Management is the investment management division of the Norwegian Central Bank (Norges Bank) and is responsible for investing the Norwegian Government Pension Fund Global. NBIM is a globally diversified investment manager with 12,429 billion Norwegian kroner at year end 2022, 51,7 billion of which invested in the shares of UK companies. We are a long-term investor, working to safeguard and build financial wealth for future generations.

We recognise the importance of the UK's Corporate Governance Code in promoting high corporate governance standards in the UK market and beyond, as the UK Code has often been referred by standard setters in other jurisdictions in the development of corporate governance policies and codes. We believe that a key reason for its success has been the focus on best practice and the flexibility provided by the "comply or explain" approach.

We welcome the amendments made to Section 1 to increase the focus on sustainability, by requiring that the board describes in the annual report how environmental and social matters are taken into account in the delivery of the strategy. We recommend that the board reporting on the company's climate ambitions and transition planning is focused on the governance of such aspects, namely how the board oversees, manages and discloses material climate risks, to avoid any potential overlaps with forthcoming reporting requirements in the UK Sustainability Disclosure Standards.

We understand the rationale behind the proposal that the Audit Committee is the most appropriate to oversee the company's approach to sustainability reporting and assurance, in light of its experience and remit over financial statements, internal controls and external audits. We believe it is important that companies retain the necessary flexibility in building experience and governance structures to manage sustainability issues, and that the Code is not prescriptive on the dedicated arrangements for the governance of sustainability.

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Comparable, consistent and reliable sustainability reporting is essential for our stewardship and risk management work. In order for investors and other stakeholders to be able to use this information in a reliable manner, it should be subject to the same internal controls and procedures which are used for financial reporting. For this reason, we agree with the suggestion to replace the world “financial” to “reporting” when controls are reference in the Code, as this will ensure that companies’ risk management and internal controls include sustainability issues.

Regarding directors’ commitments to other organisations, we concur with the FRC’s assessment that specifying in the Code or related guidance a maximum number of board appointments would not be helpful, as such appointments can take many different forms and entail varying time commitments. However, we welcome further transparency on directors’ commitments to other organisations and their capacity to undertake their role effectively. We support the reference to “diversity and inclusion” on corporate boards and the decision to move away from a list of diversity characteristics, aiming to capture wider diversity characteristics; however, we encourage the FRC to maintain a specific reference to gender continue making progress on this issue.

We appreciate your willingness to consider our perspective, and we remain at your disposal should you wish to discuss these matters further.

Yours sincerely

[redacted]

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Consultation questions

Q1: Do you agree that the changes to Principle D in Section 1 of the Code will deliver more outcomes-based reporting?

N/A

Q2: Do you think the board should report on the company's climate ambitions and transition planning, in the context of its strategy, as well as the surrounding governance?

We welcome the amendments made to Section 1 to increase the focus on sustainability, by requiring that the board describes in the annual report how environmental and social matters are taken into account in the delivery of the strategy. We recommend that the board reporting on the company's climate ambitions and transition planning is focused on the governance of such aspects, namely how the board oversees, manages and discloses material climate risks. This approach would avoid potentially duplicative requirements with the forthcoming recommendations of the UK Transition Planning Taskforce and the International Sustainability Standard Board standard IFRS S1 and S2, which will be the basis for the UK Sustainability Disclosure Standards (SDS).

Q3: Do you have any comments on the other changes proposed to Section 1?

N/A

Q4: Do you agree with the proposed change to Code Principle K (in Section 3 of the Code), which makes the issue of significant external commitments an explicit part of board performance reviews?

We welcome the proposed change to Code Principle K, which makes a director's commitments to other organisations an explicit component of the annual performance evaluation. Commitments to other organisations should be considered as part of board members' individual reviews.

Q5: Do you agree with the proposed change to Code Provision 15, which is designed to encourage greater transparency on directors' commitments to other organisations?

We concur with the FRC's assessment that specifying in the Code or related guidance a maximum number of board appointments would not be helpful, as such appointments can take many different forms and entail varying time commitments. However, we welcome further transparency on directors' commitments to other organisations and their capacity to undertake their role effectively. We suggest clarification of the term "significant" in relation to director appointments; this need not take the form of a prescriptive definition, but some guiding principles would be beneficial for companies and investors. Furthermore, we note that the use of a skills matrix could be a useful complement to enhance information for

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shareholders on how board appointments align with the company's purpose and long-term strategy.

Q6: Do you consider that the proposals outlined effectively strengthen and support existing regulations in this area, without introducing duplication?

N/A

Q7: Do you support the changes to Principle I moving away from a list of diversity characteristics to the proposed approach which aims to capture wider characteristics of diversity?

We support the reference to "diversity and inclusion" on corporate boards and the decision to move away from a list of diversity characteristics, aiming to capture wider diversity characteristics. This approach could encourage companies to move away from focusing solely on gender or ethnic diversity and to further consider aspects such as diversity of socioeconomic backgrounds. However, we caution against removing the specific reference to gender, in order to ensure continued progress is made in UK companies' practices on board gender diversity. We believe there is a risk that removing the reference to gender while maintaining the reference to cognitive diversity could slow down the progress made towards female representation on UK boards.

Q8: Do you support the changes to Provision 24 and do they offer a transparent approach to reporting on succession planning and senior appointments?

While we believe that a robust and thorough approach to succession planning and senior appointments is essential, we caution that increased transparency on succession planning could undermine the sensitivity of the process. While we support an explanation of how the nomination committee has overseen the development of a diverse succession pipeline, we have some concerns on the inclusion of the gender balance of senior management and their direct reports in the reporting of the nomination committee, as this might blur the division of responsibilities between board and management in relation to operational issues.

Q9: Do you support the proposed adoption of the CGI recommendations as set out above, and are there particular areas you would like to see covered in guidance in addition to those set out by CGI?

N/A

Q10: Do you agree that all Code companies should prepare an Audit and Assurance Policy, on a 'comply or explain' basis?

We welcome the proposal to require all companies to prepare an Audit and Assurance Policy on a "comply or explain" basis. This can provide valuable information on the extent and type of audit and assurance services adopted. We agree that the audit committee should be

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responsible for developing the Policy. We also support the ambition to strengthen the audit committee's engagement with shareholders on audit matters. An Audit and Assurance Policy published every three years could provide us with a valuable starting point for direct engagement with our investee companies.

Q11: Do you agree that amending Provisions 25 and 26 and referring Code companies to the Minimum Standard for Audit Committees is an effective way of removing duplication?

N/A

Q12: Do you agree that the remit of audit committees should be expanded to include narrative reporting, including sustainability reporting, and where appropriate ESG metrics, where such matters are not reserved for the board?

Comparable, consistent and reliable sustainability reporting is essential for our stewardship and risk management work. In order for investors and other stakeholders to be able to use this information in a reliable manner, it should be subject to the same internal controls and procedures which are used for financial reporting, and the same governance controls such as final signoff from the board. We understand the rationale behind the proposal that the Audit Committee might be the most appropriate to oversee the company's approach to sustainability reporting and assurance, as suggested under provisions 26 and 27. Many companies have a dedicated committee responsible for overseeing the company's strategy to manage sustainability-related risks and opportunities, however we agree with the FRC's decision not to recommend that Code companies have sustainability committees. We believe it is important that companies retain the necessary flexibility in building experience and governance structures to manage sustainability issues, and that the Code is not prescriptive on the dedicated arrangements for the governance of sustainability. The audit committee could however be well placed to oversee ESG disclosures and assurance processes, given its experience and remit over financial statements, internal controls and external audits. This responsibility can also help strengthen the coherence and integration between financial and sustainability reporting.

Q13: Do you agree that the proposed amendments to the Code strike the right balance in terms of strengthening risk management and internal controls systems in a proportionate way?

N/A

Q14: Should the board's declaration be based on continuous monitoring throughout the reporting period up to the date of the annual report, or should it be based on the date of the balance sheet?

N/A

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Q15: Where controls are referenced in the Code, should ‘financial’ be changed to ‘reporting’ to capture controls on narrative as well as financial reporting, or should reporting be limited to controls over financial reporting?

We agree with the suggestion to replace the world “financial” to “reporting”, as this will ensure that companies’ risk management and internal controls include sustainability issues. As mentioned in our response to question 12, sustainability information needs to be subject to the same internal governance and verification processes as financial information for stakeholders to be able to rely on it.

Q16: To what extent should the guidance set out examples of methodologies or frameworks for the review of the effectiveness of risk management and internal controls systems?

N/A

Q17: Do you have any proposals regarding the definitional issues, e.g. what constitutes an effective risk management and internal controls system or a material weakness?

N/A

Q18: Are there any other areas in relation to risk management and internal controls which you would like to see covered in guidance?

N/A

Q19: Do you agree that current Provision 30, which requires companies to state whether they are adopting a going concern basis of accounting, should be retained to keep this reporting together with reporting on prospects in the next Provision, and to achieve consistency across the Code for all companies (not just PIEs)?

N/A

Q20: Do you agree that all Code companies should continue to report on their future prospects?

N/A

Q21: Do you agree that the proposed revisions to the Code provide sufficient flexibility for non-PIE Code companies to report on their future prospects?

N/A

Q22: Do the proposed revisions strengthen the links between remuneration policy and corporate performance?

We believe that simple pay packages with equity-based remuneration based on a minimum 5-year holding period are the best way to drive long-term sustainable performance. We

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support increased transparency on how executive directors' remuneration supports company strategy and environmental, social and governance objectives.

Q23: Do you agree that the proposed reporting changes around malus and clawback will result in an improvement in transparency?

We welcome the proposed changes on malus and clawback to ensure that remuneration rewards can be withheld or recovered in case of misconduct, misstatement or other serious failing, as well as in the event of performance targets not being achieved.

Q24: Do you agree with the proposed changes to Provisions 40 and 41?

We support the increased transparency on the malus and clawback provisions, including whether and why they have been used in the last reporting period. Malus and clawback provisions should be also used to adjust remuneration where ESG-related pay targets are not met, or when a material ESG-related failure has happened.

Q25: Should the reference to pay gaps and pay ratios be removed, or strengthened?

We believe that the remuneration committee should continue providing an explanation of why remuneration is appropriate with reference to pay gaps and pay ratios. We do not believe that this provision leads to duplicative disclosures, as it does not require the board to produce disclosures on the pay gaps themselves, but to explain how the remuneration policy is consistent with the company's pay gaps.

Q26: Are there any areas of the Code which you consider require amendment or additional guidance, in support of the Government's White Paper on artificial intelligence?

We believe that the board of directors should be accountable for companies' responsible development and use of AI. We believe boards play a key role by overseeing that corporate governance and strategy balance competitive deployment of new technology against potential risks – including risks to people and wider society. This will require board expertise and resources that are proportionate to the company's risk exposure and business model. We also believe boards play an important role in overseeing a company culture of responsible AI stewardship to ensure implementation of AI policies and guidance across the business.

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