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Dear Ms Woods

Tate & Lyle PLC - Response to Consultation on Directors' Remuneration

Tate & Lyle PLC welcomes the opportunity to respond to the consultation on whether to amend the UK Corporate Governance Code to address a number of issues relating to executive remuneration.

We have set out our comments according to the questions raised in the consultation document.

Extended Clawback Provisions
Is the current Code requirement sufficient, or should the Code include a "comply or explain" presumption that companies have provisions to recover and/or withhold variable pay?

The current Code provisions are sufficient. The Code applies to a vast range of industry sectors and types of businesses. What is appropriate or necessary in one sector may be entirely inappropriate in another. The same challenge applies to types of variable pay (e.g. short-term or long-term incentives). The important principle is captured by the current Code provisions: that Committee's consider whether any additional provisions to safeguard stewardship are necessary or appropriate. A 'comply or explain' presumption could easily encourage 'base-line' compliance, without any consideration of what is genuinely in shareholders' best interests.

Should the Code adopt the terminology used in the Regulations and refer to "recovery of sums paid" and "withholding of sums to be paid"?

The consistency may be helpful; this terminology does not really change the current principle.

Should the Code specify the circumstances under which payments could be recovered and/or withheld? If so, what should these be?

It seems rather difficult to do – the Code cannot anticipate all circumstances and situations, and it would seem appropriate to leave this responsibility to the Boards of individual companies.

Are there practical and/or legal considerations that would restrict the ability of companies to apply clawback arrangements in some circumstances?

Yes – there can be significant practical and legal challenges. Usually any application of claw-back can be expected to become much more difficult with the passage of time, or in geographies where the legal framework may favour an employee / ex-employee over the corporate entity. Purely on a practical level, geographic mobility post-employment creates significant challenges to enforcement.

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Remuneration Committee Membership

Are changes to the Code required to deter the appointment of executive directors to the remuneration committees of other listed companies?

No. It is always important that potential conflicts of interests for any board member to be understood, declared, and appropriate action taken to mitigate the risk to independent decision making.

The Manifest analysis you include in your consultation paper indicates that the presence of executives may even correlate with lower levels of shareholder dissent over remuneration issues. Executive directors, as a category, can bring a wealth of relevant business experience to committee discussions and it is not clear why it would be in the best interests of UK shareholders to deter such appointments as a class.

Votes Against the Remuneration Resolutions

Is an explicit requirement in the Code to report to the market in circumstances where a company fails to obtain at least a substantial majority in support of a resolution on remuneration needed in addition to what is already set out in the Regulations, the guidance and the Code?

No. The Code makes sufficient reference to maintaining appropriate contact with shareholders, and the need for shareholder approvals when specific changes are made.

Remuneration Committee members feel a weight of responsibility to ensure that company remuneration arrangement are understood by and supported by shareholders – and are publicly accountable for that task in their dealings with shareholders through the year, and at the AGM.

Ultimately, if substantial issues are not resolved, shareholders will continue to make their views known through shareholder resolutions relating to the election of directors (particularly that of the Remuneration Committee chairman). Additional regulation, voting hurdles, and prescriptive approaches to consultation and engagement will do nothing to help here.

After much consultation and debate on the matter, the Regulations require a simple majority vote (though a 75% majority had been specifically considered). To include a different voting requirement in the Code would be out of kilter with the Regulations and be contrary to the evidence which led to that regulatory decision.

If yes, should the Code:

- *set criteria for determining what constitutes a 'significant percentage';*
- *specify a time period within which companies should report on discussions with shareholders; and/or*
- *specify the means by which companies should report to the market and, if so, by what method?*

No (see above). In any case there are a number of significant practical challenges:

- What constitutes a 'significant percentage' is likely to vary on a case-by-case basis (e.g. if there is a significant / parent shareholder, and in the context of e.g. historic voting patterns).
- The important thing in these situations will be to review and consult to build consensus and find a solution that works and will last. An arbitrarily imposed timeline will not serve shareholders' or companies' best interests.

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Are there any practical difficulties for companies in identifying and/or engaging with shareholders that voted against the remuneration resolution/s?

Often, yes. There are particular challenges identifying and/or engaging with shareholders when large shareholdings are held in nominee accounts, and / or voting follows electronic recommendations from proxy advisory services. Additionally, a number of global institutional shareholders operate on a 'no-engagement' basis either in respect of all their holdings, or in respect of 'smaller' holdings in their portfolio (even if these are sizeable on the corporate register).

Other Possible Changes

Is the Code compatible with the Regulations? Are there any overlapping provisions in the Code that are now redundant and could be removed?

D.2.4 regarding shareholder voting / approval requirements may need to be revised to remain in light of the policy approvals required by the Regulations.

Should the Code continue to address these three broad areas? If so, do any of them need to be revised in the light of developments in market practice?

Generally, these aspects continue to remain relevant and appropriate. However, overlap with legislative requirements should be identified and eliminated if possible. Additionally, some aspects have decreased in prominence as market has evolved (e.g. D.1.5 regarding notice periods).

If you have any queries, please do not hesitate to contact me.

Yours sincerely

Lucie Gilbert
Company Secretary