



Chris Hodge
Corporate Governance Unit
Financial Reporting Council
Fifth Floor
Aldwych House
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By email to: codereview@frc.org.uk

5th March 2010

Dear Chris,

Please find attached the response by F&C Investments to the Financial Reporting Council's Consultation on the Revised UK Corporate Governance Code that was published in December 2009. I note that Foreign & Colonial Investment Trust (FCIT), an independent investment trust managed by F&C, and overseen by its own independent board of directors, has submitted a separate response reflecting FCIT's independent opinion on this Consultation. I highlight this distinction to you to avoid any possible confusion on your part. Both FCIT and F&C Investments are aware of each other's position regarding this Consultation.

We are pleased to contribute to this important review, and hope that our comments are useful in your deliberations. Please feel free to contact me if you have further questions or comments. We would be happy to meet with you, as required, to discuss our views in further detail.

With best wishes,

A handwritten signature in black ink, appearing to read 'George S. Dallas'.

George S. Dallas
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March 2010

Consultation on the Revised UK Corporate Governance Code, published December 2009

Response by F&C Investments

F&C Management Ltd (F&C) is a London-based global asset management firm whose institutional and retail clients collectively represent over £153 billion of assets¹. F&C has long been an active voice in support of robust corporate governance standards for UK companies and for companies in all jurisdictions where F&C invests. In this context we welcome the opportunity to comment on the Financial Reporting Council's (FRC) Consultation on the Revised UK Corporate Governance Code, published December 2009. This follows our submission on the FRC's Progress Report and Second Consultation on the Review of the Effectiveness of the Combined Code which we submitted to you in October 2009.

As an active member of the Association of British Insurers' (ABI) Investment Committee, F&C also has provided input to the ABI's response to this FRC consultation, and we support the ABI submission as broadly reflective of our own views. But we also want to provide direct input to the FRC to underscore our specific positions on particular aspects of the Code.

As was noted in our October submission, F&C is supportive of the UK Combined Code, and we also support its renaming as the UK Corporate Governance Code. We also continue to believe that the soft law "comply or explain" framework with which the Code is applied enables the promotion of a higher standard of governance practices than might be possible through black letter law or regulation.

F&C does not comment on all the issues raised in this consultation document. Rather our comments reflect particular issues where we have views that we would like to convey to the FRC. There are three main areas we would like to highlight:

1. Annual election of directors.

Of the two alternatives put forward for section B.7.1 we would like to strongly endorse the annual election of all directors. We believe this will enhance director accountability and provide a mechanism for shareholders to give more specific and refined input to company boards through the voting process. We also believe it will enhance shareholder communication with companies and promote more robust engagement. We recognise that critics of annual elections of all directors express concern that this will lead to short-termism and runs the risk of unduly destabilizing companies in the event that these rights are exercised to the extreme. We believe these criticisms lack merit for two main reasons:

- Long-term shareholders, which account for the vast majority of institutional shareholders, do not have a rational economic interest in destabilizing companies in which they invest. Their goal is to preserve and build the long-term value of their investments, and they lack a motive for exercising their voting rights in a way that could destroy or erode shareholder value.
- Empirical evidence. In the US, where a full slate of directors commonly stands for re-election, this annual voting process has not given rise to distortions or abuse by shareholders. In the UK, BP plc is an example of a company that has not been disrupted by annual director elections notwithstanding its

¹ As at 31 December 2009, F&C Management directly managed £97.8 billion in assets. In addition, F&C has been mandated to vote and/or engage in dialogue on behalf of over 20 investment institutions whose assets total £55.4 billion. These institutions are identified in our quarterly **reo** reports: www.fandc.com/reopublicreport.



governance practices having been the subject of investor scrutiny in recent years. An even better example might be the case of Barclays plc in 2009. Barclays put its entire board up for re-election last year in light of investor concerns about its 2008 performance and non-preemptive capital raising in late 2008. While there was arguably potential for investors to exercise votes against the entire Barclays board, its board was not disrupted by this vote—as it would not have been in investors' interests to destabilise the bank.

With regard to the annual re-election of the Chairman only, we do not believe that the Chairman should be the proxy for all governance concerns. To the extent that the Chairman were to be voted out of office we believe that this would be more destabilizing than if individual directors were voted out. This would also send a weak, or possibly unclear, signal about the specific nature of the shareholder concerns.

2. Risk Management.

We would like to underscore our support for the proposed section C.2, which establishes risk management and internal control as a main Principle. This is consistent with our recommendation this past autumn, and reflects our growing focus on risk governance as an important and explicit component of good corporate governance. We support the broad interpretation of risk to include both financial and operational risks. However, as noted in our October submission F&C would recommend that the FRC makes specific mention in the revised Code to environmental, social and ethical risks. We remain of the view that these can be meaningful drivers of corporate performance and valuation—particularly when managed poorly-- and should be factored more systematically into risk management systems and into company disclosure to investors in its risk reporting.

This is consistent with The UK Companies Act (2006) which brought in several important non-financial regulations, including the requirement that any director of any company must “have regard for the impact of the company’s operations on the community and the environment” We are concerned that many companies may have a limited view of social, ethical and environmental issues simply as an aspect of corporate social responsibility-- and not as areas of potential financial, operational or reputational risk that warrant board attention. We believe that the revised Code could add value by emphasizing these non-financial risk factors given its greater emphasis on overall risk management.

3. Role of Institutional Shareholders.

We support the removal of Section E of the Code on the basis that the new Stewardship Code will be introduced to provide a framework of best practice for investors. We will be providing more detailed feedback on this issue in the separate FRC Consultation on the Stewardship Code that was announced in January 2010.