

From: Smith, Peter [peter.smith@rothschild.com]
Sent: 01 February 2010 14:14
To: Chris Hodge
Subject: Consultation on the Revised UK Corporate Governance Code - December 2009

Dear Chris

I am writing to provide comments on the proposed changes to the Code set out in the December 2009 consultation documents.

Although I am the Chairman of two UK listed companies and a Non-Executive Director of others, my comments are made in a personal capacity.

I congratulate the FRC on the the approach that it has taken to its review of the Code but there are two matters where I would wish to comment; namely, Evaluation and Re-election.

B6 Evaluation

I am fully supportive of the direction of the FRC's recommendations on evaluation and personally believe that an externally facilitated evaluation at least every three years is desirable. However, I am nervous that this requirement will place a significant burden on an embryonic market and that there will not be enough providers of the right quality to support UK-listed companies. It is not explicitly stated in the draft Code, but I think it would be desirable if the name of the external facilitator were to be disclosed so that a shareholder can make any appropriate judgements on the potential quality of the evaluation. Personally, as I stated in my submission on the earlier consultation paper, I would have asked for Boards to follow this recommendation as best practice but would not have made it a specific requirement of the Code at this stage other than perhaps for the FTSE 100 or even FTSE 250.

B7 Re-election

My personal preference out of the two options offered, is that the Chairman should be subject to annual re-election by shareholders. This has the benefit of particularising the rather different responsibilities of the Chairman. I would point out that the proposal for the annual re-election of the Chairman will require to be considered first by a company's Nomination Committee and that strengthens the opportunity for the directors generally to reconsider the performance of the chairman.

Somewhere within the body of the Code I would urge that it is made clear that institutional shareholders votes against the re-election of the Chairman should not come as a surprise to the company. In the consultation paper on the Stewardship Code it is expected that shareholders should pre-notify a company of their intention to abstain or vote again a resolution. In the case of the chairmanship, it seems to me that there should be cross-linkage into the UK Corporate Governance Code to encourage engagement by shareholders (to the extent that they have not already indicated their intentions through a voting policy or other statement) before they abstain or vote against a Chairmans re-election. By taking out the investor obligations from the Governance Code, something may well have been lost.

I there is any further information you require, please let me know.

Yours sincerely

Peter Smith

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