

# BREWIN DOLPHIN

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## **Response from Brewin Dolphin Holdings PLC and Brewin Dolphin Ltd – investment manager of over £40 billion of assets on behalf of private investors, charities and pension funds, to The Proposed Revisions to the UK Corporate Governance Code and the initial discussion about the future direction of the Stewardship Code.**

### **UK Corporate Governance Code and Guidance on Board Effectiveness Questions**

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

We believe implementation of the Revised Code should be done as soon as practicable and providing it is published this Summer, that it will be possible to apply from January 2019.

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

There is a potential conflict with SMCR regarding the proposals for the level of independence of directors for listed financial services entities.

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

##### **Wider Stakeholders**

We can understand that there is little consensus on how this should be done, though we agree that wider engagement is important. It must be hoped that further and more imaginative ideas using new technology may in future broaden stakeholder engagement beyond the three methods suggested. These proposals are a beginning and the Code should expect that one method is deployed in FTSE 350 companies or companies with more than say 500 employees, whichever is the smallest measure, and so employees' views are heard in the Boardroom.

For many Financial Services firms, a designated NED would be the most appropriate method to understand the views of employees, however, it may require the NED to spend considerable time on potentially executive matters.

A director appointed from among employees or a formal workforce advisory panel would not be an effective tool to gather employees' views for a highly regulated business and we do have general concerns about maintaining confidentiality and market sensitive information.

**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 would counsel against being too specific about which matters should be considered by a wider stakeholder base – though we believe views should be canvassed on the Resolutions to be put before the following AGM or indeed EGM.

**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?**

We support the provision in the Code that companies must respond to significant votes against or when they withdraw a resolution due to investor pressure. We agree that 20% is a significant vote and that a remedy should be published by the company within 6 months.

In December 2017, the IA launched a Public Register of meetings of companies in the FTSE All-Share who have received significant shareholder opposition (20%) to proposed resolutions or have withdrawn a resolution prior to the shareholder vote. The IA decided to create the Register, as investors have found that the current provisions of the Corporate Governance Code which expect companies to acknowledge significant votes against, were not working in practice. Brewin Dolphin is a member of the IA and welcomes this tool that will help publicise the views and actions of institutional shareholders.

**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.**

We agree that current exemptions from what is now considered best practice, should be withdrawn from smaller companies outside the FTSE 350. Though if certain provisions are especially onerous for a company – they could be addressed on a comply or explain basis. The three-year Board evaluation requirement should be applicable to all public companies without exception and will serve to ensure directors are aware of expected practice and to strengthen good governance.

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

Broadly we agree that nine years is appropriate to be considered independent. Where the overall makeup of the Board may benefit from a Chair or a NED for a longer period in a special case – this should be proposed at the meeting with the reasons for a longer tenure highlighted.

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

Subject to our answer above – we agree that it is not necessary to stipulate an absolute maximum period. For example, in the case of founder Directors where they are still considered to be making a positive contribution by all stakeholders.

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

We agree.

**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.**

We agree, it will create awareness of the benefits of gender diversity in the work force and the importance of its reporting.

**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 don't agree, as all appointments should be based on merit regardless of ethnicity. There should be a rounded approach. There is also the practical implication of defining and being able to report on ethnicity given that some people choose not to disclose and/or define their ethnicity.

**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, we generally agree that duplication helps to reinforce the importance of the requirements whosoever requires them, across different areas within the firm and broader stakeholder groups.

**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.**

We agree that roles and responsibilities and the parameters of Terms of Reference, for the Audit Committee and all Board Committees – can be moved from the Code to Guidance, providing they are published.

**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?**

The Remco has neither the time or executive oversight to review all employee pay. They should remain responsible for executive director and senior management pay only. Senior management is responsible for ensuring that the company has appropriate reward structures throughout the organisation to ensure alignment.

However, we do believe that the Board through its Remco should be responsible for the Group wide reward culture.

If in due course, the necessary secondary legislation is introduced requiring publication of pay ratios, this should also be done under the auspices of Remco.

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

Executive Directors' objectives, performance against these objectives and their read across to strategy are detailed in the Remuneration Report which we think is sufficient to ensure there is a link between pay and performance and the report does require a shareholder vote. We do believe however, that there should be a reference to long term objectives and that part of any pay structure should be linked to the long-term success of the business as well as adherence to shorter term strategy, with suggested metrics – e.g. the share price alone should not be an acceptable metric. We welcome the market shift of its own initiative towards longer vesting and holding periods e.g. five years, for a proportion of share awards.

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

As both a FTSE 350 member and as investors in over £40 billion of securities on behalf of our clients, we are keen to see remuneration throughout businesses aligned to performance and behaviour. We have always believed in principle in variable pay and that as well as rewarding success, it can also be varied down in line with the performance of the business as a whole or of individual teams. We continue to want Boards to have sufficient discretion to be able to vary remuneration both up and down.

## UK Stewardship Code – initial discussion on its future direction. Questions

**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?**

Brewin Dolphin is rated [tier 1 by the FRC](#) for stewardship purposes and takes its role as a steward of over £40 billion of investments on behalf of its clients very seriously. Our Stewardship Committee's policy is published on our website [here](#) and we also disclose [here](#) how we have voted the stock in our care in accordance with this published policy. Brewin Dolphin has for over twenty years provided a facility for its clients to vote their own stock held in Brewin nominees. We are also open to the idea and facilitate through the Stewardship Committee our discretionary managers standing up for their underlying clients' views and best interests and enable these to influence our voting policy.

We would be wary of introducing further complexity to this process with different guidance for various participants and prefer that clear principles and best practice are set out and then investors either comply or explain.

The challenge does remain however, that while we consider our Stewardship responsibilities carefully on behalf of our clients and for which they explicitly pay as part of our management fee – we believe that many other investors down a long and complex chain of advisers and custodians, pay no attention or have little understanding that they are a stakeholder. There is a broader need to reconnect stakeholders with the assets their savings are invested in.

**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?**

Firms have different clients with varying objectives and so Stewardship on their behalf should not be prescribed by central diktat – as each firm's policy and its execution will vary according to the needs of their clients. Best practice and its monitoring will be the reporting arrangements and general transparency of the Stewardship actions taken by managers; then it will be for their underlying clients to decide if they believe their agent is acting in their best interests. We would certainly agree that institutional investors should 'comply or explain' in relation to the transparency and disclosure requirements set out in the Stewardship Code.

**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 believe the tiering policy is transparent and works well as a means of encouraging firms to engage and be transparent themselves. However, the removal of the shaming Tier 3 certainly focussed firms who inadvertently strayed, so we are sorry this category has been removed as the 'last chance saloon' and perhaps a list of those public institutional investors not in Tiers 1 or 2 should also be published, so underlying investors are aware if their agent is compliant:

Tier 1 for those that clearly fully comply,  
Tier 2 for those that partially comply, and  
All relevant firms not in Tier 1 or 2.

This would be simple and fair and encourage the transparency of Stewardship activities – with possibly a recommended reporting format so firms' actions may be publicly compared.

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

It is right that the Stewardship Code should mirror the Corporate Governance Code – they both have the same ultimate objectives – the good management of public companies for the benefit of all their stakeholders. It is in their implementation that they will differ – Corporate Governance being the expectations of Boards and Stewardship for asset managers to hold those boards to account on behalf of their investors. Whatever new requirements of Boards are agreed – the Stewardship Code should expect investors to judge and for their decisions to be transparent.

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

Brewin Dolphin is a traditional long-term investor on behalf of its clients and has always believed in direct engagement with the management of the companies it holds and that it is worthwhile doing so in many respects. Though we find it hard to see how you could stipulate this approach within a Code – as other investors will take a different position and must be free to pursue the approach that suits their business, as long as it complies with the Code's transparency requirements.

**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?**

We do not believe that asset managers should be required to consider a prescribed list of ESG (environmental and social governance) issues per se but should be free to engage Management on any matter that they believe is material for the long term returns for their clients.

Having said this – gaining support from wider stakeholders is often a trait of successful companies; including their focus on the environment, worker safety and adherence to the principles of human rights. These broad requirements could be integrated in the monitoring section of the Stewardship Code (Principle 3). The language should allow appropriate flexibility.

**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?**

Within the spirit of comply or explain – we do believe that asset managers should publish their own Stewardship policy and that however it is exercised it should be transparent. As stated previously in answer to Q.17 Brewin Dolphin publishes its Stewardship policy and how it votes at company meetings, where it has a material shareholding and believe this to be good practice.

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

It is not surprising that different investors will have varied views of their role as Stewards on behalf of their various customers – it will depend on their brief and it takes many views to make a market. As above, we believe that transparency is the best approach and if the policy is publicly disclosed and voting records published in accordance with Principle 6 of the Code – that it will be a matter for underlying clients to retain the asset manager as their agent, or not.

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

We have no specific comment other than we understand that the UK Stewardship Code leads internationally. We are content to say that we apply the principles of the UK Code. As a house Brewin Dolphin does not lend stock.

**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?**

The exercise of BD's Stewardship Policy and the operation of the Group's Stewardship Committee are subject to internal audit. And while we believe that a transparent process will allow underlying clients to judge if the stewardship role has been exercised to their satisfaction, for many clients a statement from auditors beside the firm's Stewardship policy on its website, may also be reassuring.

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

The Brewin Dolphin engagement process with the management of all its investments including pooled funds, can and does address stewardship issues. Though we do not believe the Code should be amended to mandate this for pooled funds where the stewardship role has been delegated to the institutional investor.

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

While we do believe that appointments should be based on merit, we support the disclosure of relevant diversity information for both Board appointments and within succession planning / pipeline as good practice.

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

We believe that environmental factors should be an area of focus and reported in line with legislative requirements, but no more than this. Investors and their agents must ultimately retain discretion and be able to exercise their own views.

**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?**

While organisations can certainly publish the principles they consider in their role as Stewards - we would be concerned if Stewardship became just another tick box exercise with its specific requirements prescribed in the Code – leaving little discretion for clients or their agents to choose how they wish to vote.

**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?**

As above, we believe that the principles a house applies to Stewardship should be disclosed and that a firm should not be required to operate multiple codes according to the specific mandate of their underlying funds. In general, they will use the full weight of their holding to exert their influence on management. If a house fund were to vote differently from another house fund – this should be disclosed on a comply or explain basis.