

Q1. Do the proposed Sections cover the core areas of stewardship responsibility? Please indicate what, if any, core stewardship responsibilities should be added or strengthened in the proposed Principles and Provisions.

In principle, yes.

Recent comments in leading financial media and independent polling show that society's support for and trust in business and the financial services industry has plummeted since the Global Financial Crisis. Public anger over corporate failures, tax evasion, corruption and executive pay for non-performance has also been cited as a contributing factor in the Brexit debate. Our financial institutions are at significant risk of losing public legitimacy. Good stewardship, thoughtfully exercised, is not just good for investment returns, it is good for a well-functioning society. Objective standards of good governance and stewardship which are transparent, readily understood, responsive and accountable to stakeholders will, we believe, help to restore a belief that the financial services industry is working for pension fund savers and investors. As such we should not flinch from the responsibility ahead of us.

Encouraging a joined-up stewardship and ESG approach with senior management buy-in will do much to improve standards. To that end, we welcome the differentiated approach between the responsibilities of asset owners, managers and service providers. This review marks the first material change to the Stewardship Code since its publication after the Walker Review and since the move of the Code into the FRC's remit. Understandably, there will be market participants who would have like to have seen more or different change, however, with the pending introduction of the Shareholders Rights Directive, there is still a deal of unresolved regulatory work with the revised Code needs to mesh with.

There are, however, areas which could be strengthened, specifically:

- transparency and accessibility of information for beneficiaries
- significantly less reliance on boiler-plate language in disclosures
- improvements in asset owner engagement on their individual beliefs and how these can be incorporated in their investment choices
- explanations as to how stewardship factors are part of the entire investment chain, including asset allocation and stock selection.

Stewardship as an integrated investment concept is a work in progress. Attempting too much change in one attempt could, we believe, potentially undermine the ambitious vision being laid out. A clear time-table for formal review by the FRC's successor, ARGA, together with the FCA and tPR will give a clearer indication of progress and where further intervention is required.

Q2. Do the Principles set sufficiently high expectations of effective stewardship for all signatories to the Code?

In principle.

We have concerns that not all parts of the market are sufficiently bought in to stewardship or the need to change what it is currently in place.

Q3. Do you support 'apply and explain' for the Principles and 'comply or explain' for the Provisions?

Yes.

Overcoming a boiler-plate approach to Stewardship will require a more joined up approach to integration and reporting. Apply and explain will help. Too often Comply or Explain has been seen as a formulaic compliance exercise rather than the principles-based approach to a culture of stewardship.

Q4. How could the Guidance best support the Principles and Provisions? What else should be included?

An agreed taxonomy of terminology and explanation of responsibilities owned to which parties would, we believe, help all market participants. Many disputes about stewardship and governance have arisen due to stakeholders talking at cross purposes and not understanding who does what, for whom and why. Assumptions need to be replaced by facts and clear boundaries.

Q5. Do you support the proposed approach to introduce an annual Activities and Outcomes Report? If so, what should signatories be expected to include in the report to enable the FRC to identify stewardship effectiveness?

Yes.

These proposals represent a significant improvement over the AAF-01/06 attestations approach and extremely welcome.

As a matter of principle, we do not think that "Best Practice" in soft regulation or guidance is helpful. It tends to discourage participants from going beyond what is stated. "Good Practice" supports evolution and responsiveness to emerging trends. Therefore, to avoid check the box or formulaic "compliance" reporting we do not support the imposition of a standard reporting template or framework. Good practices will evolve over time in response to market competition and regulatory feedback.

Q6. Do you agree with the proposed schedule for implementation of the 2019 Code and requirements to provide a Policy and Practice Statement, and an annual Activities and Outcomes Report?

Yes.

Q7. Do the proposed revisions to the Code and reporting requirements address the Kingman Review recommendations? Does the FRC require further powers to make the Code effective and, if so, what should those be?

It is sometimes seems to have been forgotten that the FRC inherited the Stewardship Code in a roundabout way and does not have formal regulatory authority over any of the signatories, except to the extent they are quoted companies. The FRC's ability to influence the Stewardship Code except through a "goodwill ambassador" role has therefore been somewhat constrained. The new emphasis on stewardship and allocation of resources to supporting a stewardship mind-set is therefore extremely welcome. For all the criticisms of the Stewardship Code, it has been an important and influential code across the globe. The international conversations about better stewardship would not, we believe, be taking place had it not been for the FRC's independent sponsorship of the Code.

If there is a gap between stated disclosures and inspections action should be taken. However, there is a fine line between the action that should be taken by informed consumers and the need for regulatory intervention. The UK approach to governance and stewardship, with its common law underpinnings, in theory works on the basis of principles. It should offer a more flexible and prompt response to market failings than a hard rules environment. Arguably there are parallels between the failure of the audit services market and the tensions in stewardship. If everyone assumes that it is a regulators' responsibility to take steps to ensure market effectiveness there will be little role for consumers.

Looking to the future, a harmonious working arrangement between the FRC, it's successor and FCA and other regulatory bodies has yet to be agreed. It is important for this to be addressed at the earliest opportunity in order to support the implementation of the Shareholders' Rights Directive.

Q8. Do you agree that signatories should be required to disclose their organisational purpose, values, strategy and culture?

Yes.

Consistent with Apply and Explain, these disclosures will help stakeholders understand the degree to which stewardship is embedded throughout the organisation, rather than being seen as a marketing or compliance bolt-on.

Q9. The draft 2019 Code incorporates stewardship beyond listed equity. Should the Provisions and Guidance be further expanded to better reflect other asset classes? If so, please indicate how?

Yes.

Increasing the scope of the Code to other asset classes would be welcome. However, the resourcing implications for both FRC, it's yet to be formed successor and market stakeholders may be a constraining factor. Corporate bonds are certainly an immediate and logical extension, but private equity, property and infrastructure would most likely need customised guidance which will take time and resources to develop.

Q10. Does the proposed Provision 1 provide sufficient transparency to clients and beneficiaries as to how stewardship practices may differ across funds? Should

signatories be expected to list the extent to which the stewardship approach applies against all funds?

Where individual funds take their own approach, this should be explained. This information should be made available at the "Point of Sale" as well as in ongoing reporting. Many investing websites are hard to navigate and information is spread around in a way that makes it hard to understand the total impact of stewardship and ESG in an organisation.

11. Is it appropriate to ask asset owners and asset managers to disclose their investment beliefs? Will this provide meaningful insight to beneficiaries, clients or prospective clients?

Yes.

An integrated approach to stewardship and the core investment process is critical to ensuring that governance is not seen as a bolt-on extra.

12. Does Section 3 set a sufficiently high expectation on signatories to monitor the agents that operate on their behalf?

No.

The Code needs to be fully integrated with FCA CoBs, including with transposed SRDII requirements.

There are persistent problems with boundaries of responsibility in respect of the use agents. This possibly stems from the fact that the London market is international in outlook similar sounding language is used without awareness that the underlying concepts are fundamentally different – for example how far fiduciary acts can be outsourced. The law is complex in this area and clarification from the Law Commission which makes the UK position as plain as possible would be helpful.

13. Do you support the Code's use of 'collaborative engagement' rather than the term 'collective engagement'? If not, please explain your reasons.

Yes.

However, we do not believe that market participants should feel compelled to use collaborative engagement – nor should this be seen as a mark against them. It is very worrying to hear that organisations are removed from buy lists if they do not participate in specific industry initiatives. Clear and meaningful explanations should of course be offered.

Q14. Should there be a mechanism for investors to escalate concerns about an investee company in confidence? What might the benefits be?

Not at this time.

Owners of UK shares have some of the most liberal and powerful ownership rights in the world. There also exist many collaborative engagement frameworks such as the Investor Forum. The question that has to be answered before creating any new system is why existing remedies are not used.

Q15. Should Section 5 be more specific about how signatories may demonstrate effective stewardship in asset classes other than listed equity?

In the first instance we believe that improving company-related stewardship disclosures is a critical priority. By extension, this includes corporate debt.

Q16. Do the Service Provider Principles and Provisions set sufficiently high expectations of practice and reporting? How else could the Code encourage accurate and high-quality service provision where issues currently exist?

It is very helpful that there is a separate section for service providers and we very much welcome this approach. However, we believe that the primary focus of regulatory action should be the relationship between asset owners, manager and investee companies. These groups are the principals in the capital allocation process, service providers are secondary role.

In respect of "accuracy", naturally, any data used to inform the investment process should be as accurate as possible. In this regard those organisations which complain about the role of service providers seem to overlook that this is an issue throughout the investment chain, as is the management of conflicts of interest.

When it comes to stewardship, many decisions come down to beliefs and points of view which will always be subjective and as such cannot be said to be accurate. Differences of opinion are also an essential ingredient for developing new thinking. Arguably the conformity and accuracy of implementation around executive pay "Best Practices" have contributed to some very bad outcomes in recent years.

Much of what is debated, particularly in the context of proxy advisors, is either speculation or misdirection. Until the SRD has been implemented and the ongoing oversight arrangements for service providers have been resolved, we do not believe there is particular value in the FRC spreading limited resources beyond the sentiments expressed in p 104:

*'Although service providers, including proxy advisers and investment consultants, hold significant influence and have a role to play in supporting the effective functioning of the marketplace, **it is ultimately the role of asset owners and asset managers to ensure they discharge their stewardship responsibilities**, and, in doing so, hold to account those whose services they employ to advise or act on their behalf'.*

The FRC's proposals for a new Stewardship Code represent a significant step forward in the development of good governance. As the recent report from the BEIS select committee noted¹,

¹ <https://publications.parliament.uk/pa/cm201719/cmselect/cmbeis/2018/2018.pdf>

not only are the social costs of failed stewardship is significant, there remains significant lingering doubt that we are collectively doing all that we could to improve matters. We therefore look forward to working with stakeholders to continue the important work of rebuilding trust in governance and stewardship.

Minerva Analytics Ltd

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