Red Line Voting

A major asset-owner initiative by the Association of Member Nominated Trustees

The Red Lines

Voting instructions

Environmental
Social
Corporate Governance

Association of Member Nominated Trustees

2021

Introduction

AMNT is pleased to present the 2021 Red Line Voting policies which have been updated to reflect new regulatory and market developments that have taken place since the launch of the original Red Line Voting policies in 2015.

Since AMNT launched its original Red Line Voting policies trustee and fund managers' responsibilities have substantially increased with respect to stewardship and environmental, social and governance (ESG) issues, most notably climate change. The amended Occupational Pension Scheme (Investment) Regulations 2005 state that trustees must develop policies on ESG issues that they deem to be financially material. They are also required to state their policy on how they exercise their voting rights. The new Pensions Act requires trustees of larger schemes to have appropriate governance mechanisms in place to address climate risk and to report against the Taskforce for Climate-related Financial Disclosures (TCFD). As part of the 2020 Stewardship Code reporting requirements, fund managers should explain how they have managed their assets in alignment with clients' stewardship policies or if not, why not.

AMNT believes that all trustee boards should be adopting a voting policy, despite the reluctance of many fund managers. Most UK pension schemes that invest in pooled funds and have adopted voting policies (including the Red Lines) have been faced with fund managers' reluctance to allow investors to direct how the votes associated with their investments are cast. AMNT believes that trustees should be able to do so and has therefore continued to push for the right of asset owners to have their voting policy respected. Our campaign has gained greater momentum since new regulations have made it more and more imperative that pension schemes adopt a voting policy in order to hold their fund managers to account.

AMNT's Red Line policies can serve many purposes depending on the pension scheme's approach to the exercise of their voting rights:

A policy adopted by trustee boards and implemented by their fund managers on a comply or explain basis
Red Line policies should be applied on a comply or explain basis and not as a set of prescriptive voting instructions. If in any particular case a fund manager believes that it not in the client's best interests to comply with such an instruction they can vote otherwise, provided that they explain to the client why they did so through appropriate reporting. An example of an acceptable deviation would be that the fund manager is currently engaging productively with the company on that issue.

While many fund managers still refuse to accept client voting policies in pooled fund arrangements, it remains important that trustees that wish to have their voting policies implemented on a comply or explain basis continue to put pressure on fund managers to do so. For those in segregated mandates, there should not be any issue. Trustees may choose to adopt the Red Lines en bloc or, if they choose, a subset of them.

An engagement tool to hold your fund managers to account
Adopting the Red Line policies will offer trustees the opportunity to effectively hold their fund managers to account for their own approach to voting and engagement. Trustees need a benchmark against which to evaluate their fund managers' policies and outcomes, otherwise – put simply – there is no other way to judge whether the fund manager's approach is effective. AMNT's Red Lines can be used as that benchmark to better understand how all their fund managers' policies compare with the Red Lines policies. AMNT has done extensive analysis of fund manager voting policies on key ESG issues, and on balance, the findings have been disappointing and thus deserve further scrutiny by trustees.

Only through this benchmarking analysis can trustees make effective decisions as to whether their fund managers are the right ones for their scheme. This is especially important for schemes in pooled fund arrangements, where fund managers up until now have refused to accept client voting policies.

A reporting framework for Implementation statements
Red LIne policies can also be used as a framework by which trustees request voting and engagement information from their fund managers, in order to adhere to their Statement of Investment Principles implementation statements.

We have reached a critical point in terms of ESG and stewardship, and it is AMNT's hope that these Red Line Voting policies will play an important role in helping trustees fulfil their new regulatory responsibilities.

Summary of changes to the Red Lines
The biggest change to the Red Lines since 2016 has been the introduction of tougher policies on climate change. In recognition of the global emergency caused by climate change, the new policies expect companies to report in relation to the TCFD recommendations. There is also a requirement that any corporate lobbying be done in alignment with the Paris Agreement. Many fund manager policies on climate change focus on supporting shareholder resolutions on the issue. AMNT notes that only a tiny minority of companies ever face such resolutions and so it is essential that climate change voting policies are applied to all companies as climate change requires global action.

A new addition within the social Red Lines is the introduction of requirements in relation to the Modern Slavery Act. Within the governance section there is a new linkage of CEO pay to sustainability targets including climate change, and a new Red Line regarding the alignment of CEO pension contributions to that of the company's workforce.

Finally, we at AMNT hope that trustee boards, especially those with no voting policy as yet, will find these revised and updated Red Line Voting policies will be of value, however they wish to use them.

Janice Turner
Founding Co-Chair
Association of Member Nominated Trustees

Association of Member
Nominated Trustees

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These Red Lines specify a vote against. Where a Red Line has been breached an abstention will not fulfil the Red Line instruction. Any abstention in the event of breach of a Red Line instruction is to be regarded as an intermediary choosing to vote contrary to a Red Line instruction, and so the intermediary will be required to explain to the client why they did so.

If any of the voting actions specify a vote against someone who is not standing for election, or against a role that a company does not have, then the alternative is to vote against the chair of the board. If he/she is not standing for election then teh vote is against the chair of the relevant committee; if there is no such committee then the vote is against the senior independent director, and if this person is not standing for election then the vote is against the longest serving indepdnent non-executive director.

Environment

These Red Lines have been developed in accordance with Principles 1, 7, 8 and 9 of the United Nations Global Compact and the Task Force on Climate-related Financial Disclosures (TCFD)

E1.) *If the company does not have a sustainability committee with responsibility for environmental issues including climate change chaired by a board director, or if the company is outside the FTSE 350 and does not have a named board member with responsibility for this area as evidence of appropriate concern, vote against the chair of the board.*

Explanation

It is important for shareholders that companies maintain a close watch on these sources of risk to their reputation and business sustainability, and that this is actively overseen at board level. The UN General Assembly has defined a sustainable business as one that "meets the needs of the present without compromising the ability of future generations to meet their own needs."

Guidance

This is in furtherance of Principle O of the UK Corporate Governance Code which states that "the board should establish procedures to manage risk, oversee the internal control framework, and determine the nature and extent of the principal risks the company is willing to take in order to achieve its long-term strategic objectives". It is also in furtherance of the recommendations of the Task Force on Climate-related Financial Disclosures (Governance: recommended disclosure a) and Principles 7, 8 and 9 of the UN Global Compact.

The committee should have clear board accountability and be chaired by or reporting to a named board member. The committee should have oversight of policies and operational controls of environmental and health & safety risks and this should be integrated into the board agenda on strategy and business performance.

In terms of the effective operational controls, the committee should:

- cover material issues relating to the risks of the company's operations and markets;
- provide evidence that they are meeting regularly: the frequency should reflect the nature of the business but minimum twice a year; and
- provide evidence that the meetings are well attended by board members. There must always be at least one present and unless there are exceptional circumstances each board member appointed to the committee should attend every half-yearly meeting or, if there are more than two per year, at least 66% of them.

E2.) *If the company does not report in line with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) vote against the chair of the board*

Explanation

The effectiveness of a company in this area must be transparent if shareholders are properly to assess its strengths and weaknesses and that of its management. Building a sustainable and resilient business model should be at the core of the corporate strategy.

Formed by the UK's Financial Stability Board, the TCFD developed a set of voluntary climate-related financial risk disclosures which can be adopted by companies so that those companies can inform investors and other members of the public about the risks they face related to climate change. The Financial Conduct Authority (FCA) has stated that all companies with a premium listing on the London Stock Exchange are required to make climate-related disclosures from January 2021 on a comply or explain basis. This Red Line requires standard listed companies also to comply and endorses mandatory disclosure.

It is in the shareholders' interests that all the companies in which they invest do disclose the required data rather than merely explain why they have not do so which is still permitted under current regulations.

Guidance

This is in furtherance of Principles 1, 7 and 8 of the UN Global Compact and of the TCFD disclosure requirements described above.

E3.) *Year one: If the company has failed to commit to introduce and disclose science-based emission reduction targets, a coherent strategy and action plan in line with a well-below 2 degrees (ideally 1.5 degrees scenario), vote against the chair of the board.*

Year two: if the company has failed to introduce and disclose as above, vote against the chair of the board.

Explanation

The effectiveness or otherwise of a company in this are must be transparent if shareholders are properly to assess its strength and that of its management.

It is important that companies not only make public declarations of their commitment to ensure their business strategies are in alignment with a well-below 2° scenario (ideally 1.5°), but also provide robust evidence to substantiate that claim.

The Paris Agreement is a legally binding international treaty on climate change. It was adopted by 196 parties at COP 21 in Paris, on 12 December 2015 and entered into force on 4 November 2016. Its goal is to limit global warming to well below 2°c, preferably to 1.5°c, compared to pre-industrial levels. To achieve this long-term temperature goal, countries aim to reach global peaking of greenhouse gas emissions as soon as possible to achieve a climate neutral world by mid-century.

Guidance

This is in furtherance of Principles 7, 8 and 9 of the UN Global Compact.

Meaningful targets means those developed in line with accepted existing methodologies as set out in Science Based Targets, a joint initiative by CDP, the UN Global Compact, the World Resources Institute and WWF.

For newly listed companies 'year one' will be deemed to be the first year that ends after listing.

E4.) *If the company has not stated that it will conduct all its lobbying in line with the goals of the Paris Agreement and does not list its climate-related lobbying activities, vote against the chair of the main board.*

Explanation

Companies have an important role to play in ensuring that the appropriate global and regional policy frameworks are in place to support the transition to a low carbon economy. However, there are third-party organisations who are driven to weaken policy implementation as they believe it to be in their best commercial interests. However, it is not in the shareholders' interests for the world to lose the fight against climate change.

Therefore it is important that investors hold companies to account for their connection to any anti-climate lobbying activities by third parties.

Guidance

This is in furtherance of Principle 8 of the UN Global Compact.

E5.) *If the company has failed to disclose quantitative and qualitative environmental information through for example CDP's water and forests questionnaires or similar, vote against the re-election of the chair of the sustainability committee or, in the absence of such a committee, against the re-election of the chair of the main board.*

Explanation

The effectiveness of a company in this area must be transparent if shareholders are properly to assess its strengths and weaknesses and that of its management. Building a sustainable and resilient business model should be at the core of the corporate strategy.

Key disclosure areas would be water scarcity and quality, biodiversity and forests, other natural resources, waste, general pollution and environmental accidents. Clearly these will vary in the weight given to them depending on the nature of the business and the applicability of these risks to the company's sector. The risk mapping should not only identify risks but also new business opportunities that it presents and consider the impact on direct operations, supply chain and the products and services the company produces.

For example companies exposed to water risk must be expected to conduct a water risk assessment that accounts for the impacts of current and future direct and indirect water use and discharge. The assessment must encompass the availability of a stable supply of adequate quality freshwater as well as reflect the local hydrological, social, economic and regulatory context in which the company operates, buys from or sells to, i.e. direct operations and/or supply chain, products and services, and/or business partners.

The action plan should reflect the risks identified and include clear targets and key performance indicators related to activities within the direct control of the company or its suppliers – e.g. water conservation, improvements in water discharge quality and waste-water treatment. In order to meaningfully mitigate water risks however, the action plan should also incorporate catchment based actions – e.g. contributing to sustainable water management within the catchment through positive water policy engagement. In addition, the action plan must incorporate monitoring, evaluation and reporting systems of impacts of activities.

CDP, formerly called the Carbon Disclosure Project, is a global not-for-profit organisation which holds the largest and most comprehensive collection globally of primary corporate climate change, water and forest risk information.

Guidance

This is in furtherance of Principles 1, 7 and 8 of the UN Global Compact.

E6.) *If the company has a history of major incidents of environmental damage, or a major incident in the year under report, and the directors' report does not include a substantial account of how it is responding to resulting criticism and of the ways in which it proposes to minimise the risks of repetition, vote against the reappointment of the chair. If the remuneration policy proposes any increase in salary or bonus for directors employed at the time of the incident, vote against the remuneration report.*

Explanation

It is of the highest importance to their shareholders that companies should not shrug off environmental damage they cause, that they should learn lessons of incidents of such damage and that they should take appropriate steps to secure and deserve a reputation for responsibility in the future.

Guidance

Major incidents can be defined by whether there is an evident impact on the accounts. It would be helpful for trustee boards to have feedback on how those judgements are exercised. This is in furtherance of Principles 7, 8 and 9 of the UN Global Compact.

Social

These Red Lines have been developed in accordance with Principles 1, 2, 3, 4, 5, 6 and 10 of the United Nations Global Compact plus associated Conventions of the International Labour Organisation, the UN Guiding Principles on Business and Human Rights and the UK's Modern Slavery Act

S.)

S1.) *If the company does not have a committee responsible for health & safety and for social issues chaired by a board director, or if the company is outside the FTSE 350 and it does not have a named board member with responsibility for these areas as evidence of appropriate concern, vote against the chair of the board.*

Explanation

It is important for shareholders that companies maintain a close watch on these sources of risk to their reputation and business sustainability, and that this is actively overseen at board level.

Guidance

This is in furtherance of Principles 1 to 6 and 10 of the UN Global Compact.

The remit is material, not the title and the company may decide that one committee should have responsibility for health & safety, social and environmental risks. This committee should have clear board accountability and be chaired by or reporting to a named board member. The committee should have oversight of policies and operational controls of health & safety and social risks such as impact on local communities and human rights issues, and this should be integrated into the board agenda on strategy and business performance.

In terms of the effectiveness of operational controls, the committee should over material issues relating to the risks of the company's operations and markets;

• provide evidence that they are meeting regularly: the frequency should reflect the nature of the business but minimum twice a year; and

• provide evidence that the meetings are well attended by board members. There must always be at least one present and unless there are exceptional circumstances each board member appointed to the committee should attend every half-yearly meeting or, if there are more than two per year, at least 66% of them.

S2.) *Year one: If the company has not committed itself to publish within the next 12 months equality monitoring data for its workforce covering at minimum gender, race and disability, and including management and board, vote against the re-election of the chair of the committee responsible for social issues.*

Year two: if the company has not begun annual publication of such data, vote as above.

Explanation

It is in the shareholders' interests that the company is employing the best people for the job regardless of their race, gender etc and the way to measure the company's progress in this regard is by carrying out annual equality monitoring.

Guidance

In order to measure progress on achieving diversity, with regard to Provision 23 of the UK Corporate Governance Code, the tools need to be put in place with which to measure it. Equality monitoring is considered good practice as set out in guidance by the Equality and Human Rights Commission and is a key recommendation of the McGregor-Smith Review.

This Red Line is in furtherance of Principles 1 and 6 of the United Nations Global Compact, the ILO Equal Remuneration Convention 1951 No 100 and the ILO Discrimination (Employment and Occupation) Convention 1958 No 111. Their purpose is to ensure that all appointments are on the basis of merit.

For newly listed companies 'year one' will be deemed to be the first year that ends after listing.

S3.) *If there is no diversity strategy in place to address a lack of minority ethnic representation at board or senior management level, and there is no visible minority representation at that level, vote against the chair of the nomination committee.*

Explanation

It is in the shareholders' interests that the most senior executives have been selected on merit and, as stated by the UK Corporate Governance Code, that the board has a wide diversity of talent. The purpose of this Red Line is to ensure that all appointments are on the basis of merit.

Guidance

The issue here is whether there is a strategy in place. It is not about voting against boards without ethnic minority representation per se. Adoption of a diversity strategy is also in accordance with the guidance of the Equality and Human Rights Commission.

For a company with major overseas exposure it should consider the need to appoint to the board foreign nationals from the countries in which it operates in order to ensure that the board has a sufficiently deep understanding of these markets.

This Red Line is in furtherance of the UK Corporate Governance Code which states that constructive and challenging dialogue is essential to the effective functioning of a board and that one way to encourage this is through having sufficient diversity on the board. The 2018 Code states that this includes gender and ethnic background. The Red Line implements Provision 23 of the Code which states that a section of the company's annual report should include a description of the board's policy on diversity and inclusion, its objectives and linkage to company strategy, how it has been implemented and progress on achieving the objectives.

It is also in furtherance of the Parker Review which had set a target that every FTSE100 company should have at least one ethnic minority board director by 2021 and FTSE250 companies by 2024. This Red Line is also in furtherance of Principles 1 and 6 of the United Nations Global Compact, the ILO Equal Remuneration Convention 1951 No 100 and the ILO Discrimination (Employment and Occupation Convention 1958 No 111.

The definition of 'senior management' should be determined by the board but should include the first layer of management below board level. A strategy should set out what it wishes to achieve and how it intends to achieve it. If the company fails to disclose whether there are any visible minorities at board and senior management level, vote against the chair of the nomination committee.

S4.) *Vote against the re-election of the chair of the nomination committee if there is no strategy in place to address any underrepresentation of women at board level and within senior leadership positions, none of the roles of Chair, CEO, Chief Financial Officer and senior independent director are held by women, and fewer than 33% of the company's board members are female.*

Explanation

It is in the shareholders' interests that the most senior executives have been selected on merit and, as set out by the UK Corporate Governance Code, that the board has a wide diversity of talent. The purpose of this Red Line is to ensure that all appointments are on the basis off merit.

Guidance

The issue here is whether there is a strategy in place. It is not about voting against boards with fewer than 33% female board representation per se.

This is in furtherance of the Hampton-Alexander Review. The 2021 report stated that on average, the FTSE 350 had reached the target of women holding 33% of board positions by the end of 2020: it had been achieved by 220 of the 350 companies involved, rising from just 53 companies in 2015. However, the report stated that gender diversity in leadership can still improve as women still only hold 14% of executive directorships in the FTSE 100 and less than 30% of senior leadership positions. It recommended that companies should have a one woman in at least one of the four roles of Chair, CEO, Chief Financial Officer and senior independent director, and investors should support this best practice.

This Red Line is in furtherance of Provision 23 of the UK Corporate Governance Code which states that a section of the company's annual report should include a description of the board's policy on diversity and inclusion, its objectives and linkage to company strategy, how it has been implemented and progress on achieving the objectives.

It is also in furtherance of Principles 1 and 6 of the United Nations Global Compact, the ILO Equal Remuneration Convention 1951 No 100 and the ILO Discrimination (Employment and Occupation) Convention 1958 No 111.

S5.) *Vote against the re-election of the Chair of the main board if there is a failure to abide by the UN Global Compact standards on freedom of association, including the recognition of independent trade unions for the purpose of collective agreement.*

Explanation

It is in shareholders' interests that directors fulfil their duties under Section 172 of the Companies Act 2006 by conforming to international conventions that protect people's rights to freedom of association within their own company and within the supply chain. Failure to do so may cause reputational damage, labour unrest and a fall in share value.

Guidance

This is in furtherance of Principle Three of the United Nations Global Compact, the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948, No 87, which protects people's rights to join in association for the defence of the members' interests. The Right to Organise and Collective Bargaining Convention, 1949, No 98, contains the right to collective bargaining, which depends on recognising an independent trade union with a democratic structure.

The lack of a recognised union in a company will not in itself trigger a vote under this Red Line. In order for this Red Line to be enacted a company will have committed a hostile act, such as refusal to grant a request for voluntary recognition made by an independent trade union (as defined by the Trade Union and Labour Relations (Consolidation) Act 1992 and certified as independent by the Certification Officer); derecognising or partially derecognising a trade union that is currently recognised or attempting to do so; or having a policy that is hostile to trade unions such as refusal to permit union representatives to visit the company's premises by invitation of workers.

S6.) *In furtherance of Principle One of the United Nations Global Compact, vote against the board's remuneration proposals if any members of staff, including subcontracted staff employed in the UK,*

- *are paid below the Living Wage or where applicable the London Living Wage and the company has no plans to address this;*
- *do not have employment contracts specifying the number of working hours per week, or (aside from overtime with increased pay) allow more than a 25% increase or decrease on that figure to meet business needs.*

Explanation

Growth in productivity is in the shareholders' interests and this is a serious issue in the UK. Studies show that greater productivity comes from a workforce that is paid fairly. This is also in furtherance of Section 172 of the Companies Act 2006 which requires directors to promote the success of the company with regard to the interests of its employees, the impact of the company's operations on the community and the need to act fairly as between members of the company.

Guidance

Regarding the Living Wage, the issue here is whether there is a plan to introduce the Living Wage if anyone is paid less than this. The plan must specify a timetable for its introduction. For the avoidance of doubt, this Red Line refers to the rate set by the Living Wage Foundation and not to the statutory National Minimum Wage while it is lower.

The specification on employment contracts takes German legislation as a model, which is also used in other countries: it recognises the need among some enterprises for flexible hours, up or down 25% on the specified contractual working time (specifically the German Part-time Work and Fixed-term Contracts Act, the *Teilzeitarbeit- und befristete Arbeitsverträgegesetz*).

In recognition of the current lack of disclosure in this area, in year one when investment managers engage with companies that have not disclosed the information required under this Red Line they will be expected to engage on this point. In year two failure to disclose this information will trigger a vote against.

S7.) *Year one: Where a company has breached labour standards or law, or failed to carry out human rights due diligence and disclose the modern slavery risks which are identified in their operations and supply chains, vote against the chair of the committee responsible for corporate social responsibility.*

Year two: If undertakings made by the company in year one to establish procedures to prevent a repetition are not introduced, and/or there are further breaches, vote against the Chair of the main board.

Explanation

This Red Line is in furtherance of Section 172 of the Companies Act 2006 which imposes a duty upon a director to promote the success of the company having regard to, among other factors, the interests of the company's employees, the impact of the company's operations on the community, and the desirability of the company maintaining a reputation for high standards of business conduct.

This is also in furtherance of Principles 1 to 5 of the UN Global Compact, including the UN's *Guiding Principles on Business and Human Rights* and the UK's Modern Slavery Act. The persistence of labour rights violations in supply chains is a pressing issue. Four 'core' ILO Conventions entail an absolute prohibition on forced labour and child labour.

Guidance

Breaches might be evidenced by the determination of a court of law or major labour unrest that causes substantial value destruction. This does not include minor breaches. It would be helpful for trustee boards to receive feedback on how "major" and "minor" are interpreted by those entrusted with voting. Human rights breaches might be evidenced in relation to the *Guiding Principles* and Modern Slavery Act.

S8.) *Where the company has a history of major breakdowns of industrial partnership, or of serious endangerment of health and safety, or of fraud, bribery or other corrupt practices among its staff, or has sustained major damage from any of those causes in the year under report, and the directors' report does not include a substantial account of how it is responding to resulting criticism and of the ways in which it proposes to minimise the risks of repetition, vote against the adoption of that report.*

If the remuneration policy proposes any increase in salary or bonus for directors employed at the time of the incident, vote against the remuneration report.

Explanation

It is of the highest importance to their shareholders that companies should learn the lessons of such shortcomings in their organisational culture and that they should take appropriate steps to secure and deserve a reputation for responsibility in the future.

Guidance

It will be a matter for the judgement of the person entrusted with the vote as to whether incidents are "major" and as to whether responses are "substantial". It would be helpful for trustee boards to have feedback on how those judgements are exercised.

This is in furtherance of Principles 1 and 10 of the UN Global Compact.

Corporate Governance

These Red Lines have been developed in accordance with the Financial Reporting Council's UK Corporate Governance Code 2018

G.)

G1.) *If the chair of the board of directors and the position of chief executive have been held by the same person for more than one year, vote against the re election of the chair of the nomination committee.*

Explanation

It is generally agreed in the UK that chief executives should be accountable to the board for the day-today running of the company and be supervised by a non-executive director chairing the board. The concentration of power in the hands of a single individual is prone to encourage abuse, or at least restricted vision, of the interests of the company and its shareholders. Provision 9 of the Code states that these roles should not be combined. Provision 9 also recognises, however, that exceptionally a board may decide that a CEO may take on the chair. It is evidently considered justifiable only in exceptional circumstances and the Red Line envisages that they should arise only on a transitional basis.

Guidance

See the introductory guidance note on page 5.

G2.) *Vote against the chair of the nomination committee if the company does not have a policy of market testing of all board and senior management positions through an open appointments process for all vacancies.*

Explanation

It is in the shareholders' interests that the company employs the best candidates for senior roles. The best way to achieve this is to ensure market competition for these roles through open advertising.

Guidance

This does not mean that internal appointments are unacceptable, nor that recruitment consultants cannot be utilised. It simply means that the company should ensure open competition for these roles in order to be satisfied that it selects the best candidate.

This Red Line is in furtherance of Principle J of the Code states that "appointments to the board should be subject to a formal, rigorous and transparent procedure, and an effective succession plan should be maintained for board and senior management". It is also in furtherance of Principles 1 and 6 of the United Nations Global Compact, the ILO Equal Remuneration Convention 1951 No 100 and the ILO Discrimination (Employment and Occupation) Convention 1958 No 111.

Their purpose is to ensure that all appointments are on the basis of merit. It is recognised that while a company may havea strategy that is generally compliant, it may encounter circumstances in which an appointment needs to be arranged for a post but it would be commercially damaging for the company to publicise the prospective vacancy. We would expect voting on this Red Line to take that into account provided that diversity was part of the brief guiding the search. Absence of evidence for such a policy should not be taken automatically as evidence of its absence, but should give rise to further enquiry.

G3.) *If a fulltime director of the company concurrently holds the chair of another public company or is a director of more than one other public company, vote against that person's re election.*

Explanation

It is in the interests of shareholders that directors have adequate time to fulfil the responsibilities of their office. While a concurrent non-executive responsibility may bring advantages of cross fertilisation to both companies, it is important that this is not substantially at the expense of commitment to the director's fulltime responsibilities.

Guidance

A director should be treated as fulltime if he or she is contracted to devote substantially all his or her working time to the company and/or to companies within the same group or otherwise "connected" with the investee company within the meaning of sections 252 to 255 of the Act. This Red Line goes beyond Provision 15 of the UK Corporate Governance Code because it does not confine its relevance to other companies within the FTSE 100.

In the absence of evidence to the contrary an executive director shall be taken to be fulltime and a non-executive not; if it is not clear from the remuneration report whether a director is executive, he or she shall be taken to be so.

G4.) *If it is not clear which of the existing directors of a company, and which of any current candidates for election to the board, are independent vote against the adoption of the report and accounts.*

Explanation

According to Provision 10 of the UK Corporate Governance Code the annual report should identify which directors the board determines to be independent. Without this information it is difficult to judge whether the board has the balance between independent and other directors set out in the Code and hence to determine whether Red Lines G4 and/or G5 have been breached.

Guidance

If, exceptionally, the report and/or accounts were laid before a general meeting of the company without a motion being put for their adoption, vote against the approval of the remuneration policy, for which a motion is statutorily required.

G5.) *Vote against the re-election of any non-executive director if it could result in that person's continuous service as a director of the company exceeding nine years, unless it is not intended that he or she be treated in future as an independent director.*

Explanation

As an initially independent director's tenure goes on, it may be expected to become more difficult to maintain that independence from the outlook of the company's executive which the shareholders need. Provision 10 of the UK Corporate Governance Code states that circumstances which are likely to impair, or could appear to impair, a non-executive director's independence include whether a director has served on the board for more than nine years from the date of their first appointment.

Guidance

If an individual was identified as an independent in the latest directors' report, it is to be assumed that he or she will continue to be so treated, unless documentation circulated to the shareholders in connection with the relevant meeting makes clear that this is not the intention.

G6.) *Vote against the re election of the chair of the nomination committee if the company does not have the minimum number of independent non-executive directors required by Provision 11 of the UK Corporate Governance Code.*

Explanation

It is in the very clear interest of shareholders that the outlook of the board is not dominated by the group of the people who are running the business day to day. It is for this reason that the Provision 11 of the Code says that at least half the board, excluding the chair, should be non-executive directors whom the board considers to be independent.

Guidance

The chair of the board, though he or she should be independent on appointment, is not to count as independent in this context.

A person is to be treated as a non-independent non executive director if (as referred to in Provision 10 of the Code) any of the following issues apply. The director:

- Has been an employee of the company or group during the last five years;
- Has, or a connected person has had, within the last three years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;
- Has received or receives additional remuneration from the company apart from a director's fee, participates in the company's share option or performance-related pay schemes, or is a member of the company's pension scheme;
- Has close family ties with any of the company's advisers, directors or senior employees;
- Holds cross-directorships or has significant links with other directors through involvement in other companies or bodies,
- Represents a significant shareholder;
- Is attested by the board to be a non-independent non-executive director;
- Is a former board chair;
- Has a substantial personal shareholding of ≥ 1%, or
- Has been on the board for nine years or more.

G7.) *If any director of a company will have served continuously as such for more than three years without having been re-elected at a general meeting, vote against the re election of the chair of the board.*

Explanation

It is in the interests of shareholders that directors be held to account by reasonably frequent elections.

Guidance

Provision 18 of the UK Corporate Governance Code prescribes annual elections of all directors; and any guarantee to a director that his or her term will, or may, last for more than two years requires shareholder approval under section 188 of the Companies Act 2006.

G8.) *If competition for appointment as statutory auditor has been restricted to the "big four" accounting firms, vote against the re-election of the chair of the audit committee.*

Explanation

Competition encourages businesses to improve the quality of the goods and services they sell in order to attract more customers and expand market share. In a competitive market there will be more choice and more innovation and the competition for business could encourage lower fees. It is therefore in the shareholder's interest that competition for the role of auditor is not restricted to the "big four" accounting firms and that greater competition for this work is encouraged.

Guidance

The dominance of four accounting firms - KPMG, Deloitte, Ernst & Young and PricewaterhouseCoopers LLC - carrying out audit work has been an important issue that has still not been tackled. This issue was exacerbated by the Financial Reporting Council's 2020 assessments of the audit quality of the dominant firms which found some audits to be unsatisfactory and called for them to support a culture of challenge.

This Red Line will come into effect with regard to appointments made in financial year starting in 2021 and thereafter.

G9.) *If the Audit Committee does not have at least one member with recent and relevant financial experience, vote against the re-election of the chair of the nomination committee.*

Explanation

It is in the interests of shareholders that a company's audit committee has sufficient experience to fulfil their role. The committee will find it difficult to protect shareholders by interrogating and challenging audit reports if no-one has the expertise to do so.

Guidance

Provision 24 of the Code states that the board should satisfy itself that at least one member of the Audit Committee has recent and relevant financial experience.

G10.) *If the company's statutory auditors have for a period of 15 years or more been the same, or drawn from the same firm, vote against the re election of the chair of the audit committee.*

Explanation

It is in the interests of shareholders that a company does not develop so close a relationship with its auditors as to risk compromising the independence of their role.

Guidance

It is not apparent from the material circulated to the shareholders in connection with the company's accounts meeting whether this Red Line has been breached, it should be assumed that it has, unless the person exercising the vote has knowledge that it has not. A firm formed by the merger of predecessor firms is to be taken to be the same as each of those.

G11.) *If over the reporting period relevant to the latest accounts meeting of a company its auditors (including any of their associates) were due to be paid an amount in fees for non-audit services greater than 50% of that properly fixed as remuneration for audit work, or a breakdown of the auditor fees has not been provided, vote against the re-election of the chair of the audit committee.*

Explanation

The closer the involvement of an auditor or a firm of accountants with the company, the greater the strain on the independence of the auditors and the risk to the interests of the shareholders. The independence of an auditor may be questionable if it receives more money for its non-audit work for a company than it receives in audit fees.

Guidance

Associates of the auditor or of any other entity are in this connection those so defined in Schedule 1 to the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008 (SI No 489), e.g. partners, subsidiaries. Remuneration for audit work should be taken to mean that receivable for the auditing of the company's (or relevant group) accounts, aggregated with any for the auditing of accounts of any associate of the company. Non audit services constitute all other services to be reported under regulation 5(3) of those Regs (as amended by SI 2011 No 2198) – a comprehensive list is set out in Schedule 2A to them.

The fees breakdown should make clear what the fees are for, which fees are for audit work and which are for non-audit work, with sub-categories for each. For example, tax-related work, whether compliance or advisory in nature, needs to be explicitly referenced.

If the chair of the audit committee is not standing for re-election, vote against the chair of the board.

G12.) *Vote against the re-election of the chair of the board and any non-independent members of the audit committee if that committee is not to not consist entirely of independent non-executive directors.*

Explanation

Provision 24 of the Code requires an audit committee and envisages that it will consist of independent non-executive directors. The deployment of independents in this role, especially in managing the company's relationship with the auditors, mitigates the risk of that relationship becoming incestuous.

Guidance

If an individual was identified as an independent in the latest directors' report, it is to be assumed that he or she will continue to be so treated, unless documentation circulated to the shareholders in connection with the relevant meeting makes clear that this is not the intention. Conversely, an individual not so identified should normally be taken to be non-independent.

G13.) *If the directors' reports do not indicate how one may readily access policy of the company in relation to the management of its tax affairs, vote against the re-election of the chair of the audit committee*

Explanation

It is increasingly seen as good practice in the context of corporate risk management, including management of reputational risk, for a company's board to have a published tax policy indicating the company's approach to planning and negotiating tax matters, and to allow stakeholders to monitor its handling

of risk in this area. This is not to be seen as the sole concern of the finance department.

Guidance

This is in alignment with the Principles for Responsible Investment's Investors' Recommendations on Corporate Income Tax Disclosure.

G14.) *Vote against political donations and political expenditure.*

Explanation

There is a serious concern that political donations and political expenditure by a company are likely to reflect the private leanings of senior management rather than the interests of the company or its shareholders.

Guidance

Under section 366 of that Act, shareholder approval is generally required before any such donations are made or such expenditure incurred. The Red Line should not be taken to apply in circumstances where that section does not apply, e.g. where the donations made by the company and its subsidiaries total less than £5k for the last 12 months, or where a donation is made to an all party parliamentary group.

G15.) *If authorisation is sought for the directors of a company to allot shares in it without offering full pre-emption to existing shareholders, vote against giving it if the authority is to last beyond the next AGM, or if general exclusion of pre-emption is sought over more than 5% of issued share capital (or more than 10% if for a specified acquisition or capital investment), or if a specific exclusion is sought over more than one-third of issued share capital.*

Explanation

It is not generally in the interests of shareholders for their holding to be diluted by the issue of new shares, so if new shares need to be issued, shareholders should normally expect to have the opportunity to avoid that dilution by having first refusal, i.e. the right of pre emption. The Investment Association and the Pre Emption Group of the Financial Reporting Council, however, recognise that some flexibility is in the interests of companies and their owners.

Guidance

The limits set by the Red Line broadly reflect the criteria described in the FRC Pre Emption Group's 2015 paper Disapplying Pre Emption Rights: a statement of principles (especially paragraphs 3 and 4 of Part 2A) and in the Investment Association's Share Capital Management Guidelines (July 2014), though it is recognised that they are more tightly prescriptive. The reference to shares should be taken to include other equity securities.

It is possible for the articles of a company to permit directors to disapply the general right of pre emption which ordinary shareholders are given by section 561 of the Act. Accordingly, a resolution to adopt new articles which would introduce, or maintain, such a right of disapplication should be voted against, as well as special resolutions bundling this issue with others.

G16.) *Vote against any proposal for shareholder support for a dispensation from Rule 9 of the Takeover Code.*

Explanation

Rule 9 of the Takeover Code is designed to protect minority shareholders, as pension schemes will almost always be. It requires a person (or group) who has acquired a sizeable stake (30% or more) in a company to make an offer for all its shares and securities, but the Panel on Takeovers and Mergers will generally waive the requirement if a majority of independent shareholders vote to favour that.

Guidance

In cases where it might genuinely be in minority shareholders' interests for an offer not to be insisted upon, the Panel has power to waive the requirement without a shareholder vote, so only in the most exceptional circumstances should such a vote be supported.

G17.) *If there is no separate resolution to approve the final dividend, vote against the report and accounts.*

Explanation

If shareholders are to have adequate control of the way in which profits are used, it is important that issues of dividend policy are not obscured by being bundled with other matters.

Guidance

Those exercising votes are encouraged to extend the coverage of this Red Line beyond final dividends to other distributions within the meaning of Part 23 of the Act where it is practicable to do so.

G18.) *Vote against the chair of the board and the re-election of non-independent members of the remuneration committee if the committee does not consist entirely of independent non-executive directors.*

Explanation

It is essential to the shareholder's interests that the remuneration committee is comprised entirely of independent non-executive directors: it is not acceptable that directors should preside over their own remuneration remuneration packages.

Guidance

This is in accordance with Provision 32 of the Code which specifies that the remuneration committee should comprise three (or in smaller companies two) independent non executive directors. The Code also states that the Chair can only be a member if they were independent on appointment and cannot chair the committee. Before appointment as chair of the remuneration committee, the appointee should have served on a remuneration committee for at least 12 months. Provision 10 of the Code states the circumstances which are likely to impair, or could appear to impair, a non-executive director's independence. These circumstances are set out in G5.

G19.) *Vote against the remuneration policy in the case of any of the following:*

- *Failure to use service contracts in relation to executive directors, which should be no more than one rolling year in duration and in the case of termination be subject to mitigation;*
- *Awarding of a 'sign-on' bonus without the inclusion of any conditionality*
- *Service contracts with provisions that in effect reward failure;*
- *Basic salary increase greater than inflation or that given to the rest of the workforce;*
- *Layering of bonus schemes on top of existing bonus schemes;*
- *Uncapped bonuses*
- *Too wide discretion given to the remuneration committee*
- *No provision for claw back*
- *No provision for withholding of benefits on cessation of employment*
- *If the performance measures are only stock-market related such as Total Shareholder Return.*

Explanation

It is in shareholders' interests that remuneration packages are straightforward, are straightforward, clear, do not allow bonuses that are in effect unearned (such as signing on bonuses) and bonuses that have no defined upper limit. They should not reward failure, for example contracts should be no more than one rolling year in duration and there should be clawback clauses, and bonuses or Long Term Incentive Plans should be awarded pro rata.

Stock market related performance metrics can be manipulated – for example a share buy-back can raise the share price; saving money by closing an R&D department could increase short-term profit at the expense of long-term product development. It is in the shareholders' interests that performance metrics are linked to the company's strategic plan and key performance indicators (KPIs) and ensure there is a strong read-across from the company's strategy to the drivers of executives' remuneration.

Guidance

This red line is pursuant to Principles P, Q, and R of the Code. Principle P of the Code states: "executive remuneration should be aligned to company purpose and values, and be clearly linked to the successful delivery of the company's long-term strategy". Performance related elements should be transparent, stretching and rigorously applied."

Layering of bonus schemes on top of existing ones captures instances where companies attempt to overlay a new short or long term incentive scheme (or schemes) in addition to the existing arrangements.

G20.) *Vote against the remuneration report and/or the remuneration policy in the case of any of the following:*

- *Lack of clarity*
- *Lack of transparency*
- *Failure to include company productivity in the performance metrics*
- *Failure to consider vertical comparability issues*
- *Absence of incentives based on performance conditions over at least three years*
- *incentives which would have the effect of making directors focus on short-term returns at the expense of sustainable business success.*

Vote against the remuneration report in the case of any of the following:

- *Bonuses being awarded despite decline in the company's performance*
- *Inappropriate use of discretion*
- *Payment of a transaction bonus*

Explanation

The remuneration report reports on the remuneration that has been paid in the past year.

The remuneration policy sets out the remuneration committee's plans for directors' remuneration packages going forward.

A transaction bonus is one that is determined on the completion of a transaction, typically merger or acquisition, rather than after any benefits of that transaction to the company have had time to show themselves (usually five years on).

Vertical comparability issues are those concerning the appropriateness or otherwise of differentials in pay within the company.

Guidance

This Red Line is pursuant to Principles P, Q, and R of the Corporate GovernanceCode.

Lack of transparency: examples include no quantified targets disclosed or no disclosure of the peer group when using such a group as a comparison.

G21.) *Vote against the remuneration report or policy if the total remuneration package of any director is more than 100 times greater than the average pay of the company's UK workforce, other than in exceptional circumstances which must be fully justified.*

Explanation

Provision 33 of the Code states that companies should "review workforce remuneration and related policies and the alignment of incentives and rewards with culture, taking these into account when setting the policy for executive director remuneration". In the description of the work of the remuneration committee in the annual report, the Code states that companies should state "what engagement has taken place with shareholders and the impact this has had on remuneration policy and outcomes".

Therefore, it is not in the shareholders' interests for companies to ignore this matter as doing so may cause any of the following: internal resentment, falls in productivity, industrial unrest, reputational damage, fall in output and fall in shareholder value. If the average wage in a company is approximately the national UK median annual earnings for full-time employees of about £31,500 per year , a director earning 100 times this would be paid £3.15 million.

Guidance

The single total figure for each director's remuneration is that required to be included in the remuneration report by paragraphs 4 and 5 of Part 3 of Schedule 8 to the Large and Medium sized Companies and Groups (Accounts) Regulations 2008 (SI 2008/410, as amended by SI 2013/1981). Schedule 8 paragraphs 38 39 state that the company has to state how the pay and employment conditions of employees have been taken into account when setting directors' pay. Paragraph 39(b) requires that report to set out what, if any, comparison measurements were used and how.

The 2019 UK pay ratio regulations make it a statutory requirement for UK listed companies with more than 250 employees to disclose annually the ratio of their CEO's pay to the median, lower quartile and upper quartile pay of their UK employees. Companies were required to start reporting this in 2020 (covering CEO and employee pay awarded in 2019).

G22.) *Vote against the remuneration policy (or the Long Term Incentive Plan if there is a separate vote on it) if the LTIP could result in a payment higher than 300% of salary.*

Explanation

Long Term Incentive Plans (LTIPs) should be aligned to shareholders' interests – but there is evidence to show that LTIP payments to executives in the FTSE 350 increased by over 250% between 2000 and 2013, roughly five times faster than returns to shareholders, and there is negligible linkage between LTIP payments to executives and shareholder returns. This is not in the shareholder's interests.

Guidance

Principle P of the Code states: "executive remuneration should be aligned to company purpose and values, and be clearly linked to the successful delivery of the company's long-term strategy". LTIPs sometimes require specific shareholder approval and sometimes not, depending on how they are structured.

G23.) *Vote against the remuneration policy if the CEO's remuneration package does not include criteria for awards to be linked to relevant sustainability targets including those in relation to climate change.*

Explanation

By incorporating such targets companies show that they integrate sustainability criteria into their overall business planning and that they are truly committed to acting in a socially and environmentally sustainable manner. Setting such targets also reinforces the notion that sustainability issues are an important driver of business value and can help shift the focus away from short term returns.

The integration of sustainability performance indicators as direct drivers of executives' variable remuneration is a practice that is of growing importance. This practice, part of a more general trend of convergence between the fields of sustainability and corporate governance, has two aims. First, a remuneration policy that internalises the interests of a broader range of stakeholders can boost the company's reputation and improve the relationship with both its investors and communities. Second, monetary incentives linked to sustainable development can effectively contribute to improve the company's management of sustainability risks which should lead to better financial performance in the medium to long term.

For carbon intensive sectors , the company CEO's remuneration arrangements must specifically incorporate climate change performance as a key performance indicator determining performance-linked compensation (reference to 'ESG' or 'sustainability performance' are insufficient). In addition, the the CEO's remuneration arrangements must incorporate progress towards achieving the company's emissions reduction targets as a KPI determining performance linked compensation.

Guidance

Principle P of the Code states: "executive remuneration should be aligned to company purpose and values, and be clearly linked to the successful delivery of the company's long-term strategy". Linking executive pay to achievement of sustainability performance targets is aligned with the intentions of the code and in the interests of shareholders.

G24.) *Vote against the remuneration report or policy if the pension contributions for any director are not limited to the director's basic salary and are out of alignment with that of the company's workforce*

Explanation

It is in the shareholders' interests, and of particular concern to asset owners who are pension schemes, that executive remuneration aligns with wider company pay policy. Recent years have seen the closure of thousands of defined benefit pension schemes and millions of workers have been moved into less generous defined contribution schemes which makes it even more important that company directors receive benefits on a par with the workforce.

Guidance

This is in furtherance of Provision 38 of the UK Corporate Governance Code which states: "Only basic salary should be pensionable. The pension contribution rates for executive directors, or payments in lieu, should be aligned with those available to the workforce. The pension consequences and associated costs of basic salary increases and any other changes in pensionable remuneration, or contribution rates, particularly for directors close to retirement, should be carefully considered when compared with workforce arrangements".

Appendix

The Ten Principles of the United Nations Global Compact

The UN Global Compact's ten principles in the areas of human rights, labour, the environment and anti-corruption enjoy universal consensus and are derived from:

- The Universal Declaration of Human Rights
- The International Labour Organization's Declaration on Fundamental Principles and Rights at Work
- The Rio Declaration on Environment and Development
- The United Nations Convention Against Corruption

The UN Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anti-corruption:

Human Rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that they are not complicit in human rights abuses.

Labour

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labour;

Principle 5: the effective abolition of child labour; and

Principle 6: the elimination of discrimination in respect of employment and occupation.

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

The UK Corporate Governance Code

The UK Corporate Governance Code 2018 can be found here:

https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code

Red Line Voting

Association of Member Nominated Trustees

A major asset-owner initiative by the Association of Member Nominated Trustees