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AFEP-Medef consultation

Via the evidence portal

10 April 2018

Dear Madam, dear Sir,

Consultation on AFEP-Medef corporate governance code
We welcome the opportunity to provide our comments on the revision of AFEP-Medef Corporate governance Code. Hermes Investment Management (Hermes) is an asset manager with a difference. With £33.0 billion in assets under management, we focus on holistic returns and consider the impact our decisions have on society, the environment and the wider world – outcomes for our clients that go far beyond the financial. Our stewardship team, Hermes EOS, is one of the world's leading engagement resources, advising on £336.1 billion on behalf of over 40 international institutional investors. The views expressed in this communication are those of Hermes EOS and do not necessarily represent the views of all clients.
In our response we have set out a number of ideas to support long term successful companies that deliver savers with the holistic returns they seek.

Yours sincerely,
Hermes EOS

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1- Value creation and corporate purpose (§1.4)

We welcome a requirement for boards to oversee material social, societal and environmental issues, as a fully integrated pillar of their duties to steward long term value creation.

In order to succeed in the long-run, companies need to effectively manage relationships with key stakeholders and have regard for the environment and society as a whole. Successful companies not only create sustainable value for their shareholders, but also benefit stakeholders, the wider economy and the societies in which they participate. Moreover, ultimately, long term performance depends on the social and environmental resilience of the societies they operate in. In that respect, the Code could also encourage companies to demonstrate how their strategy aligns with the Sustainable Development Goals.

Nevertheless, we do not believe that these considerations should lead to 'statutory change to the corporate purpose' of company. Rather, we believe that corporate responsibilities necessarily encompasses these considerations to deliver sustained returns not only to shareholders but to other stakeholders within its elected commercial purpose.

2- Duties of the Board and review of the opportunities and main risks (§1.6)

We welcome this revision. The Code could further stress that material social, environmental and governance considerations are critical parts of the assessment of the risks and opportunities and should be reported as such.

3- Non-discrimination and Diversity (§1.7)

We agree with this principle. We believe that what gets measured gets managed, and what gets published gets managed even better. The Code could further strengthen reporting requirements on diversity, starting with gender diversity in companies' leadership, as defined by the executive committee and its direct reportees.

The pay gap reporting regulation now in place in the UK is a powerful indicator for gauging a company's wider corporate culture, diversity and inclusion. Some French companies already provide such information and set best practice. The revised Code could drive change by providing guidance for disclosure, including gender pay gap data and how they plan to address the gap.

4- Lead director (§3.2)

We welcome the stronger requirement of independence for the lead director. Additionally, we would encourage the revised Code to present the separation of the roles of chair and CEO as the preferred governance model.

Since the responsibilities and competencies of the chair of the board and the chief executive officer are different, we believe they are most effectively discharged by two different individuals. The separation of the roles ensures the focus of the chief executive on the management of the company, while a distinct chair introduces an additional element of overview and accountability to the board and therefore the company itself.

5- The Board and communication with the shareholders (§4.2)

The implementation of the Shareholder Rights Directive of the European Union will provide a regulated requirement to enhance the dialogue between investors and companies. Considering the lack of Stewardship code in France, the revised Code could positively anticipate the requirement by providing a strong framework for the dialogue, by referring directly, for instance, to the ICGN's Global Stewardship Principles.

The scope of existing stewardship codes across the developed markets includes a direct dialogue between institutional investors and the chair of the board, the lead director and other relevant board members such as committee chairs. A number of French companies already provides access to the lead director and committee chairs.

Therefore, the revised Code could support this trend by encouraging further the dialogue between investors and relevant board members, as well as further extending the scope of the dialogue to other material environmental and social considerations.

6- Directors representing employees (§7.1)

We welcome this revision. We would also encourage companies to enhance their communication on the governance of employee representation on boards, including the nomination process chosen, and why it has been chosen.

7- Clarity and transparency of information (§10.1, §13.4)

We welcome this revision, and would recommend companies to publish a matrix of the skills, experience and other relevant attributes their board in their reference document.

8- Conflicts of interest (§19)

We welcome this essential revision, and would additionally recommend the specific instances to be reported in the reference document.

9- Executive officers' compensation (§24.1.1)

We support this revision, provided that these considerations lead to clearly defined and material, strategic indicators with stretching targets. The French market provides excellent examples of meaningful indicators, as well as a number of unconvincing ones, with an undemanding qualitative appreciation.

Moreover, we would encourage the revised Code to request a report on the measures taken to respond to more than 20% dissent on the say-on-pay resolution. This response should include an update on further engagement with shareholders and the learnings from this dialogue.

10- Composition and tasks of the High Committee on corporate governance (HCGE)

A corporate governance code governed by issuers is unique to France. The creation in 2014, of the Haut Comite de Gouvernement d'Entreprise (HCGE) does not fully alleviate our concern, despite its welcome interventions in a number of occasions. We believe that the governance of the committee should be more transparent, including in its nomination process. Further, the HCPE should be in majority independent and include a stronger representation of investors.

11- Procedure for revising the code

We welcome this revision.

12- General observations

We have no other comment.