

19 September 2008

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BY POST & E-MAIL
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Dear Ms Oyre

REVIEW OF THE CONSTITUTION

As major long-term investors in global capital markets, we are keen to ensure that the global investment environment operates in a manner which enables sustainable wealth creation. Accordingly, we attach great importance to having a well-respected and effective suite of International Accounting Standards, and we are strong supporters of the International Accounting Standards Board. We welcome the invitation to comment on the Constitutional Review, and we appreciate the thoughtful approach which is being taken thereto.

Key Comment – Integrated Constitutional Involvement of Shareholders and Investors

Financial statements are prepared in accordance with International Financial Reporting Standards (“IFRSs”) with a view to enabling shareholders and investors to exercise stewardship responsibilities and take relevant investment decisions. Accordingly, it is important that the constitutional arrangements ensure that shareholders and investors are formally integrated in a way that ensures that they can exercise appropriate influence in respect of the governance and oversight arrangements as well as the IASB’s priorities and pronouncements. In the latter regard we welcome the Trustees recent decision to invite representatives of relevant organisations, which we understand includes investor organisations, to apply for membership of the re-structured Standards Advisory Council.

However, in the former regard we are struck by the relative absence of any substantive reference to the legitimate role of shareholders and investors, in their capacity as providers of long-term capital to the global capital markets, and to the benefits that would accrue to the Foundation and the standard setting process which it oversees from their constitutional involvement. It should be noted that in recent years the institutional investor community has organised itself such that it is able to speak on a more cohesive basis than was the case in the past. We expect this trend to continue.

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Accordingly, we should like the Trustees and its Constitution Committee to consider very carefully the arguments which are put forward for integrating participation from shareholders and investors into the constitutional arrangements of the IASCF. We believe that such integration will not only strengthen the standing and effectiveness of the Foundation but also accelerate the general acceptance of IFRSs amongst the shareholder and investor communities, as well as of your other stakeholders. We should emphasise that whilst the regular contact and active engagements that are referred to in paragraphs 10 and 11 of the proposal are encouraged, they are not, of themselves, a substitute for the formal integration of shareholders and investors, who have a pervasive locus. Failure to achieve effective formal integration could undermine the support which IFRSs generally enjoy from investors and shareholders. We note that some influential commentators are becoming increasingly critical of IFRSs and the oversight exercised by the IASCF; hence the support of shareholders and investors is very critical.

Although we make some suggestions in our responses to the consultation questions, we have an open mind at this juncture as to how best to achieve such integrated constitutional participation but we believe it is critical that, as a minimum, the IASCF gives a clear commitment to develop proposals to achieve such participation. One possibility that merits consideration is that the Trustees should have a standing Investor Advisory Group, which would have responsibility for not only providing influential advice on the governance of the IASCF but also responding to any requests from the Trustees for advice to help inform their deliberations from time to time.

To develop proposals to the next stage it may be beneficial for the Constitution Committee to have an informal dialogue with senior representatives from the global shareholder and investment communities in the interim. For the avoidance of doubt, we recognise that there is a role for global regulators and their representatives within the constitutional arrangements; our intent is that the recommendations arising from the Review should augment rather than substitute for their proposed role.

We trust our key comment and our response to the questions posed in the Consultation Paper, which are enclosed, will receive favourable consideration.

Yours sincerely

Guy Jubb
Investment Director
Head of Corporate Governance
Standard Life Investments
Edinburgh

And for and on behalf of the undernoted:

Frank Curtiss
Head of Corporate Governance
Railpen Investments
London

Mrs Pat Wade
Corporate Governance Manager
Co-operative Asset Management

Mrs Anita Skipper
Head of Corporate Governance

Simon Wong
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Mr George Dallas
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Mr Paul Frentrop
Head of Corporate Governance
APG Investments
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cc. Mr G Zalm – Chairman of the Trustees
Mr T Seidenstein – Corporate Secretary

Questions related to the Monitoring Group

Q1. Do you support the creation of a Monitoring Group in order to create a direct link of public accountability to official institutions?

We support, in principle, the creation of a Monitoring Group since we recognise that regulatory and other official bodies charged with the establishment and enforcement of financial reporting standards have a legitimate oversight role. However, our support, in practice, for the creation of a Monitoring Group is conditional on:

- Being satisfied regarding the governance arrangements for the Monitoring Group. Currently, such governance arrangements are neither transparent nor included within the consultation process – this should be remedied.
- The role of a Monitoring Group being adapted to incorporate the substance of our comments in response to the other questions pertaining thereto.

It is relevant to emphasise that we do not believe that the standard setting process and its oversight should be “politicised”. Therefore, in our opinion, it is very important that the Constitution incorporates appropriate checks and balances to prevent political interests exercising undue or inappropriate influence over the Monitoring Group.

Q2. The proposals contemplate a Monitoring Group comprising representatives of seven public authorities and international organisations with a link to public authorities. While recognising that the Monitoring Group is an autonomous body, the Trustees would welcome comments regarding the Monitoring Group’s membership and whether other organisations accountable to public authorities and with an interest in the functioning of capital and other financial markets should be considered for membership.

It would seem wise to incorporate some flexibility to enable the Monitoring Group to add or co-opt new members from time to time, subject to appropriate checks and balances. We advocate that Question 2 should invite comments that pertain to ‘other organisations accountable to public authorities or (not and) with an interest in the functioning of capital and other financial markets’ being considered for Monitoring Group membership. On this basis, in line with the key comment in our covering letter, we commend the solicitation of nominees from the shareholder and investor representative bodies, who are being invited to make nominations for the IASB’s Standards Advisory Committee.

Q3. The Trustees will remain the body primarily responsible for the governance of the organisation and the oversight of the IASB. Their responsibility to a Monitoring Group will enable regulatory and other authorities responsible for the adoption of IFRSs to review the Trustees’ fulfilment of their constitutional duties. Does the formulation of the Monitoring Group’s mandate and the Trustee’s reporting responsibilities as described in the proposed Section 19, appropriately provide that link, while maintaining the operational independence of the IASC Foundation and the IASB?

We support the Trustees retaining primary responsibility for the governance of the organisation and oversight of the IASB. With reference to the mandate of the Monitoring Group, as set out in Section 19, we believe it is fundamentally important that the Monitoring Group should have some effective enforcement mechanism in the event that it believes that the Trustees, individually or collectively, are not fulfilling their constitutional duties. A watchdog with neither a bark nor a bite may find its credibility being called into question. Therefore, we believe that the mandate of the Monitoring Group should be expanded to (1) enable it to exercise appropriate powers of enforcement and (2) provide that it should publish publicly an annual review of its activities and conclusions.

Q4. Given the proposed creation of a Monitoring Group, would there be a continued need for the Trustee Appointments Advisory Group in the selection of Trustees? If so, what should be the role of the Trustees Appointments Advisory Group?

We think it would be wrong to presume that the proposed creation of a Monitoring Group would result in the Trustee Appointments Advisory Group ('TAAG') becoming redundant. Indeed, in the light of the Monitoring Group's proposed responsibility to approve the appointment of Trustees, we could envisage the TAAG providing a useful role if its terms of reference are redefined such that its advisory recommendations become a constitutional pre-requisite for the approval of the appointment of Trustees.

The Trustees would welcome any additional comments related to a Monitoring Group proposal.

- (a) We are very concerned about the proposal to give the Monitoring Group sole responsibility to approve the appointment of Trustees, thereby giving it an effective right of veto. We believe it is vitally important that constitutional arrangements are made to ensure that the Trustee appointment process, including approval of appointment, provides appropriate checks and balances. In this regard, we advocate strongly the involvement constitutionally of investors and shareholders such that the appointment of Trustees is, and is seen to, enjoy consensus support from the providers of long term capital. This could be achieved by enabling the Investor Advisory Group, which is referred to in our covering letter, to contribute to the deliberations of the Monitoring Group.
- (b) It has been suggested that the Constitution would enable the Monitoring Group to exercise oversight responsibilities in relation to the IASB. We regard such responsibilities as inappropriate and we should like the Constitution to make clear that the Monitoring Group's responsibilities pertain only to the IASCF.

Questions related to the IASB's composition.

- Q5. Do you support the principle behind expanding the IASB's membership to 16 members in order to ensure its diversity, its ability to consult, liaise and communicate properly across the world, and its legitimacy?**
- Q6. Do you agree with the geographical formulation suggested by the Trustees?**

We support the principle behind expanding the IASB's membership to 16 and we agree the geographic formulation. However, in the event that the membership were to expand further it is likely that we, and possibly other observers, would intuitively question the effectiveness of the enlarged Board. In the circumstances, we encourage the Board to undertake a thorough annual review of its effectiveness and take action in accordance with the funds arising, which should be summarised in the Annual Report.

- Q7. The Trustees are suggesting that the Constitution provide flexibility on the matter of part-time membership. Do you support that recommendation?**

We support this recommendation, noting the need to exercise care to ensure that this does not create two classes of board members. We acknowledge that this flexibility may make it more attractive than currently to attract members from the investment and shareowner communities.

The Trustees would welcome additional comments on the proposals.

We have no additional comments at this juncture.