PIRC

LANCASHIRE QUARTERLY VOTING REPORT

OVERVIEW

1. The Pension Fund received voting recommendations for **318** resolutions at **18** meetings in the quarter ended **2014-09-30**.
2. The Pension Fund supported **185** of the resolution (**58.18%**).
3. The Pension Fund voted against on **103** occasions (**32.39%**).
4. The Pension Fund abstained on **21** occasions (**6.6%**).
5. There were **0** non-voting agenda items (**0.0%**).
6. There were **9** withheld agenda items (**2.83%**).
7. There were **0** not supported agenda items (**0.0%**).

APPENDIX B

TABLE 1: GEOGRAPHIC VOTING OVERVIEW

Geographic Region	Meeting	Resolutions	For	Oppose	Abstain	Withheld	Say When on Pay	Non-Voting
SOUTH AND CENTRAL AMERICA	0	0	0	0	0	0	0	0
REST OF THE WORLD	1	63	23	38	2	0	0	0
ASIA	2	14	9	4	1	0	0	0
NORTH AMERICA	6	64	34	18	3	9	0	0
UK	6	120	94	16	10	0	0	0
EU	3	57	25	27	5	0	0	0
JAPAN	0	0	0	0	0	0	0	0

TABLE 2: ANALYSIS OF UK ALLSHARE VOTING RECOMMENDATIONS

Resolution Type	For	Percentage %	Abstain	Percentage %	Oppose	Percentage %	Total
Annual Reports	5	83.33	0	0.0	1	16.67	6
Remuneration Reports	3	50.0	1	16.67	2	33.33	6
Articles of Association	0		0		0		0
Auditors Appointment	1	16.67	5	83.33	0	0.0	6
Directors	49	85.96	3	5.26	5	8.77	57
Dividend	5	100.0	0	0.0	0	0.0	5
Executive Pay Scheme	0	0.0	0	0.0	2	100.0	2

TABLE 3: MEETINGS VOTE / NOT VOTED IN THE QUARTER

Company	Meeting Date	Type	Date Voted	Comment
SINGAPORE POST LTD	2014-07-04	EGM	2014-06-19	Voted
SINGAPORE POST LTD	2014-07-04	AGM	2014-06-19	Voted
HERCULES TECH GROWTH CAP INC	2014-07-08	AGM	2014-06-23	Voted
SAINSBURY (J) PLC	2014-07-09	AGM	Not Voted	No ballot generated
EXPERIAN PLC	2014-07-16	AGM	2014-07-09	Voted
SSE PLC	2014-07-17	AGM	2014-07-10	Voted
NATIONAL GRID PLC	2014-07-28	AGM	2014-07-21	Voted
EMS-CHEMIE HOLDING AG	2014-08-09	AGM	2014-07-23	Voted
SMUCKER (JM) CO.	2014-08-13	AGM	2014-08-08	Voted
XILINX INC.	2014-08-13	AGM	2014-08-08	Voted
MEDTRONIC INC	2014-08-21	AGM	2014-08-12	Voted
NASPERS LTD	2014-08-29	AGM	2014-08-20	Voted
GREENE KING PLC	2014-09-10	AGM	2014-08-26	Voted
COMPAGNIE FINANCIERE RICHEMONT SA	2014-09-17	AGM	2014-09-05	Voted
DIAGEO PLC	2014-09-18	AGM	2014-09-05	Voted
NIKE INC.	2014-09-18	AGM	2014-09-17	Voted
RYANAIR HOLDINGS PLC	2014-09-25	AGM	2014-09-15	Voted
FEDEX CORPORATION	2014-09-29	AGM	2014-09-17	Voted

TABLE 4: GEOGRAPHICAL COUNT OF ALL SUPPORTED MEETINGS

SOUTH AND CENTRAL AMERICA			
Meetings	Count All For	AGM	EGM
0	0	0	0
REST OF THE WORLD			
Meetings	Count All For	AGM	EGM
1	0	0	0
ASIA			
Meetings	Count All For	AGM	EGM
2	0	0	0
NORTH AMERICA			
Meetings	Count All For	AGM	EGM
6	0	0	0
UK			
Meetings	Count All For	AGM	EGM
6	0	0	0
EU			
Meetings	Count All For	AGM	EGM
3	0	0	0
JAPAN			
Meetings	Count All For	AGM	EGM
0	0	0	0

Vote Rejections

PIRC was not notified of any vote rejections during the quarter.

Vote Changes

PIRC was not notified of any client vote changes during the quarter.

United Kingdom

July

Law Commission Reports on Fiduciary Duty

Report clarifies relevance of ESG factors in trustee decision making

The Law Commission has released its long awaited The Fiduciary Duties of Investment Intermediaries report containing a range of guidelines and recommendations around investment issues.

Taking a lead from the Kay Review the report maintains a focus on longer-term decision making and defines various factors trustees may take into account in assessing both risks and returns in investment decision making. The report notes trustees should focus on investing for "realistic" returns rather than attempting to maximise short-term results.

Investment management turnover and consultants processes are also under scrutiny in the full report but most attention has centred around Commissions views on the interaction between ESG and sustainability considerations and fiduciary duty as expressed in the Guidance for Pension Fund Trustees.

The Commission has balked at making an explicit recommendation for change in the current law, handing off to government a recommendation to review the current Occupational Pensions Schemes Regulation particularly around social, environmental or ethical considerations and the differences between financial and non-financial factors.

However, the Commission has expressed its views in reasonably clear language on materiality of financial considerations that a trustee should take account in investment decisions:

‘When investing in equities over the long-term, the risks will include risks to the long-term sustainability of a company’s performance. These may arise from a wide range of factors, including poor governance or environmental degradation, or the risks to a company’s reputation arising from the way it treats its customers, suppliers or employees.’

‘Where poor business ethics raise questions about a company’s long-term sustainability, “we would classify them as a financial factor which is relevant to risk.’

Further the materiality of issues a Trustee may take into account:

'Any financial factor which is relevant to the performance of an investment. These include risks to a company's long-term sustainability, such as environmental, social or governance factors (often referred to as "ESG" factors).'

The conclusion is that there is no impediment to trustees taking account of environmental, social or governance factors where they are, or may be, financially material.

In a boost to member advocacy campaigns, the report has also outlined a two stage test for non financial factors that may be taken into account by Trustees, including member views on particular investments. Further recommendations encompass adding the new guidance into the Pensions Regulator Trustee Toolkit and potentially longer-term inclusion in the Code of Practice.

The report has been broadly welcomed with both the PRI and NAPF issuing positive statements.

No Butts or Bombs Says Croydon

Local Authority Fund Drops Tobacco, Arms and Nuclear Power from Investments

The £705m Croydon Council Pension Fund has taken a lead on ethical investments by transferring all of its equity assets of around £350 million to a global ethical investment fund run by Legal and General.

The decision taken at the Fund earlier in June effectively disinvests the fund from exposure to tobacco, nuclear power and arms stocks.

'Having a pension fund that invests in tobacco was very much at odds with our responsibility to protect and improve public health in this borough, and there were clearly a number of concerns about the ethics of doing that.'

'Ensuring the council is a socially responsible investor was a key manifesto pledge for the administration.' Chair of the committee councillor John Wentworth told IPE.

Councillor Simon Hall, cabinet member for finance and treasury at the council and vice-chair of the pension committee added 'Tobacco is not the low-risk, high-profit investment it once was...this really is in the best interests of the scheme's beneficiaries and residents, both ethically and financially.'

Tobacco investments in particular have featured in debates around ethical and socially responsible investing stretching back decades with US endowments and mutual funds often taking the lead in the past. The giant Norwegian SWF divested from 17 tobacco related stocks in 2010. The Australian Government sovereign 'Future Fund', leading industry funds Cbus and HESTA, and large public sector pension funds at local, state and federal level have also quit tobacco in Australia.

Croydon is seen leading the way on tobacco with IPE detailing mixed results from other local authority funds to limit exposure or divest entirely.

The July Law Commission Report on fiduciary duties of investment intermediaries should give some further elbow room for trustees and funds to review the ESG considerations surrounding this kind of investment. With Big Tobacco mounting expensive legal challenges in various jurisdictions against Australia's pioneering and successful 'plain packaging' reforms despite losing a High Court case, and furiously lobbying in the UK to block similar legislation, its reasonable for institutional investors to ask some serious questions about beneficiaries interests..

Croydon Council Pension Fund has given its answer.

August

Regulators toughen up banking rules
PRA and FCA release joint consultation papers to improve individual accountability at banks.

The Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) have released two joint consultation papers aimed squarely improving individual responsibility and accountability in the banking and finance sector.

The proposed regulations are a further response to an industry blighted by a decade of scandals, a global crisis and an attitude to remuneration far adrift from any moorings around performance, shareholder value and community standards, issues all too frequently highlighted in PIRC Alerts over many years.

The first joint paper, Strengthening accountability in banking: a new regulatory framework for individuals proposes that senior individuals that 'have the potential to bring a bank to failure, or to cause serious harm to customers' will undergo approval to ensure their suitability for the role. The role of senior managers will have to be clearly defined to improve the regulators' capability of holding individuals to account.

The second paper, Strengthening the alignment of risk and reward: new remuneration rules set to come into force on 1st January 2015, seeks to strengthen clawback abilities on bonus payments.

The PRA and FCA also proposed paying bonuses over a minimum of five or seven years, depending on the employee's level of seniority, a method that is seen to align risk and reward.

The numerous wrongdoings that have emerged from the banking sector have largely seen individuals mostly go unpunished, while shareholder value has been consistently whittled away by multi-billion dollar impairment costs and record fines, with more in the pipeline.

Andrew Bailey, Chief Executive of the PRA said, ‘Holding individuals to account is a key component of our job as regulators of banks. We believe that enhancing individual accountability and improving the alignment of risk and reward should have a positive impact on behaviour and culture within banks and will help to ensure that they are managed in a way that promotes the safety and soundness of individual institutions.’

The proposals have already attracted criticism. Anthony Browne from the British Bankers' Association (BBA) told the BBC "Bankers are paid less here [in London] than in New York, Singapore or Hong Kong, and ultimately this could have an impact on the competitiveness of London as a financial centre and the jobs and tax paid here.

"We have the world's largest international banking sector and we do have to make sure that we can continue to employ banking talent from around the world."

Santander CEO Ana Botin is reported in The Telegraph as fearing that ‘seven-year clawbacks on bankers’ bonuses could threaten London’s position as a leading financial centre.’

In PIRC’s view the evidence clearly shows that playing around with vesting periods of these lengths simply does not incentivise. Better to drop long term incentive plans altogether and enforce brutal law back arrangements in directors’ contracts to recover rewards for failure.

Other comments allude to the spectre of a mass exodus of City bankers and financiers, hurriedly fleeing the UK for the sanctuary of alternative jurisdictions with less regulation. A mooted prospect that PIRC Alerts believes is unlikely to rouse the general populace into forming flying pickets, blockading channel ports and international departure terminals, clamouring for bankers to stay. And anyway, isn’t banking a global business?

Any banker who sees working to an ethical standard embodying both trust and stewardship as an onerous weight to bear should consider a radical career change.

September

New Governance Code Behind on Accounting

FRC addresses remuneration, long term value and engagement. Accounting concerns still remain.

The UK Financial Reporting Council has updated the UK Corporate Governance Code (the Code) with a series of amendments that attempt to address areas where corporate behaviour has been poor and shareholder concern has been high.

Some of the significant changes to the Code include:

- Companies should state whether they consider it appropriate to adopt the going concern basis of accounting and identify any material uncertainties to their ability to continue to do so;
- Companies should robustly assess their principal risks and explain how they are being managed or mitigated;
- Companies should state whether they believe they will be able to continue in operation and meet their liabilities taking account of their current position and principal risks, and specify the period covered by this statement and why they consider it appropriate. It is expected that the period assessed will be significantly longer than 12 months; and
- Companies should monitor their risk management and internal control systems and, at least annually, carry out a review of their effectiveness, and report on that review in the annual report
- Greater emphasis to be placed on ensuring that remuneration policies are designed with the long-term success of the company in mind, and that the lead responsibility for doing so rests with the remuneration committee; and companies should put in place arrangements that will enable them to recover or withhold variable pay when appropriate to do so, and should consider appropriate vesting and holding periods for deferred remuneration.
- Companies should explain when publishing general meeting results how they intend to engage with shareholders when a significant percentage of them have voted against any resolution.

The changes are consistent with the directions foreshadowed by the FRC earlier in 2014 and reflect some of the views amongst asset owners that boards should focus more on longer term value. Remuneration structures must be aligned around this objective and higher levels of accountability to and engagement with shareholders is fundamental to good governance. Despite this, issues still remain.

<u>Accounts and Going Concern</u>

The new Code does not reflect investor concerns about the wording of the going concern statement, and the placing of it within general risk statements. PIRC has been very clear that the true and fair view requirement of company law is a standard to discharge basic director duties of trading lawfully, as a solvent going concern, and making lawful distributions, based on a proper balance sheet and profit and loss account. That can be the only meaning per the construction of the 1947 Companies Act, where the true and fair view standard first appears as the standard for both the books of account at all times, and the annual accounts. That position is then properly reflected in the 2nd, 4th and 7th EU Directives. However, elements of the accounting profession over a long period of time misrepresented true and fair view as meaning something different, and given its genesis under the aegis of the accounting profession the FRC seems to have inherited the wrong version.
PIRC is therefore concerned that the Code may give the false impression that the discharge of directors going concern obligations can be done outside of audited accounts with non-audited information instead.

<u>Auditor Rotation</u>

The Code has established 10 year comply or explain retendering of the audit appointment. That has now been somewhat superseded by EU regulations, creating a different test at 10 years and then 20 years and by the Competition and Market Authority draft orders proposing 5 year comply or explain retendering and 10 year compulsory retendering. The legislation to implement the CMA and EU proposals is still pending in the UK.
PIRC policy has consistently been that long tenure creates an independence threat to auditors, not only in terms of over familiarity, but inherent disincentives to discover and reveal past errors. The new regulatory environment should provide sufficient information on tenure to have a consistent voting outcome based on tenure.

PIRC policy on this matter is under review. PIRC believes that the process of auditors retendering as incumbent auditors may itself also create an independence threat in the event that difficult issues come to light for shareholders during or ahead of the retendering.

On the different policy concern of too few audit firms, which retendering is attempting to address, PIRC believes that the only practical solution is a cap on the market share that any one firm can have.

EU

August

Mandatory Voting on M&A adds value

New study boosts case for shareholders to have final say on large merger deals

New academic research has found that obliging shareholders to vote on company acquisitions generates ‘substantial value’ and helps discourage the most reckless transactions.

The 64-page study – Does Mandatory Shareholder Voting Prevent Bad Acquisitions? was compiled by Marco Becht of the Université Libre de Bruxelles, Andrea Polo of Universitat Pompeu Fabra, and Stefano Rossi of the Krannert School of Management. It is part of a series from the European Corporate Governance Institute, a Brussels-based non-profit group.

The researchers have focused on the UK, where some aspects of merger & acquisition deals above 25% (‘Class 1’) can trigger shareholders votes. A Takeovers Panel also has an oversight role in M&As. The study looked closely at the failed £24bn (€30.37bn, bid by Prudential Plc for American International Group’s Asian life-insurance arm in 2010. The deal was opposed at the time by advisory firms RiskMetrics and PIRC and by a group of shareholders marshalled by Neptune Investment Management’s Robin Geffen.

It eventually collapsed with costs put at £377m.

‘Our results indicate that mandatory shareholder voting can generate substantial value improvements for acquiring shareholders,’ the report states.

The UK stands out from both the EU and US markets in votes an M&A proposals, in Europe there are no votes and in the US shareholder votes are not binding or can be sidestepped.

The team found that over in the period 1990-2010 UK Class 1 transactions, subject to a shareholder vote, were linked to an ‘aggregate gain to acquirer shareholders of $US13.6bn.’

They add that US deals of a similar size –subject to shareholder approval – showed an aggregate loss of a whopping $US210bn for acquirer shareholders. Furthermore, smaller so-called 'Class 2' M&A deals in the UK, Where votes are not mandatory, 'are associated with an aggregate loss of $US3bn' over the same time period.

'It is surprising that the UK model of governing large acquisitions has not been imitated in other markets dominated by widely held companies. Mandatory shareholder voting on large corporate acquisitions is a simple.

Norwegian Fund Intent on Transparency

Giant SWF will announce votes in advance of meetings for selected companies.

One of the largest asset owners in the world has taken a welcome step in announcing that it will begin giving advanced notice of voting intentions at company meetings.

From next year, Norway's Government Pension Fund Global (GPFG) will publish its voting intentions prior to meetings in an effort to 'increase transparency, and encourage initiatives to strengthen the vote execution chain.' Previously disclosure had only taken place a day after company meetings.

The move is seen as one that will increase pressure on boards to engage with GPFG and other investors on ESG issues.

The sheer size of the Norwegian fund, which holds on average 1.3% of every company listed worldwide and a higher 2.5% of every European listed company, means that any announcement it makes is likely to have a concomitantly wider impact among both asset owners and managers.

The wider influence of any announcement made by the fund largely rests on how far in advance it is made. The Financial Times notes that some large US pension funds including Calpers and Calstrs, make public their intentions, but usually not far enough ahead of a meeting to materially affect AGM votes.

Publishing its voting intentions is another development from the fund which has traditionally taken a leadership role on governance issues including remuneration, board composition ESG reporting, divestment and sustainability.

As part of its strategic direction the GPFG has also foreshadowed a more active intervention in director appointments in some of its larger holdings and an increase in the number of companies it will hold a 5% stake in.

The fund has also appointed a corporate governance advisory board which includes UK corporate governance expert John Kay, author of the landmark Kay Review.

It is inevitable that focus will now shift to other large asset owners with speculation over how many will follow suit and when. More and more members and beneficiaries are beginning to make connections between their pension accounts and the underlying holdings of their funds as the growing campaigns around carbon divestment demonstrate.

While its still a primarily a minority of members it is reasonable to assume this interest will grow over time.

At the other end of the scale, the traditional model of closed door discussions by asset managers and their voting decisions kept under wraps is a little more wobbly after this decision.

Transparency and disclosure go hand in hand with good governance and active shareholders.

The Norwegians have shown that it can be done.

September

Differential Voting Rights Confirmed By Italian Parliament

One Share One Vote principle watered down despite concerns.

The Italian Parliament has extended the thrust of Law Decree n.91 which came into force on 24th June opening the door to differential voting rights for shareholders. (See PIRC Alerts 12th August).

Decrees become lawful upon publication in the Official Gazette for a 60-day window but subsequently lapse unless they are converted into Parliamentary law during that period.

The original Decree of n.91/2014 was part of a raft of financial reforms **introduced by the government and amongst many changes to financial and corporate law provided for additional voting rights for shares held continuously for 24 months sparking governance concerns.**

The Parliament in converting the original Decree to Law n.116/2014 has added further measures that water down existing pro-independent shareholder protections and have the potential to entrench the influence of major shareholders.

To give effect to additional voting rights, amendments will be required to company by-laws. Those public companies that call an EGM prior to Jan 2015 will require only a simple majority vote as Parliament has temporarily suspended a long standing provision in Italian law that resolutions put on an extraordinarily basis require a two thirds majority to pass.

This provision is being seen to benefit a number of state controlled listed companies where the government controls around thirty per cent of share capital directly or as a result of indirect holdings through the Fund for Deposits or Cassa Deposisit e Prestiti (CDP**).**

In effect, the by-laws can be changed and multiple share voting rights introduced without the consent of a majority of independent shareholders. Large enterprises such as Enel**,** Eni**,** Finmeccanica**,** Snam **and** Terna **are seen amongst the primary beneficiaries of this move.**

In a second major change, shareholders not voting in favour at EGMs shall not have the 'right to withdraw', which governs conditions around share redemption, as is currently provided by Article 2437 of the Italian Civil Code on all resolutions modifying shareholders' voting rights.

Giuseppe Vegas, President of market regulatory authority Consob, opposed this provision in the Decree at a Senate hearing on the 2nd of July. Despite this opposition, the Parliament decided to eliminate this existing shareholder right.

The third issue centres on provision for mandatory takeover bids. Previously, a single shareholder who exceeded 30% of the share capital was required to launch a takeover bid. Under new Law n. 116/2014, the new threshold is a combination of share capital (30%) and voting rights (25%), if no other shareholders hold a greater stake.

However, a bid is not mandatory if the 25% threshold is exceeded following the assignment of the additional voting rights. Some confusion still exists over how this change will apply in practice with Consob due to issue clarifying regulations on December 31st.

In summary, the scope of the Law n. 116/2014 seems larger than that of the original Decree n. 91/2014. In addition to state-controlled companies, family-owned businesses and foundation-controlled financial institutions may also benefit from this provision, especially the latter.

The implication of these changes is a possible re-consolidation of the Italian shareholding panorama, back towards the previous 'strategic control' model, almost a direct response to recent market developments which had led to the dissolution of many long-term shareholder agreements and increased more free-float capital.

Independent shareholder rights and the ability engage and influence governance do not appear to be the priority. PIRC Alerts will follow developments as they unfold.

SRI takes a step forward in Italy

Sustainable Investment Forum agrees a definition for Responsible Investment.

The Italian Sustainable Investment Forum (FFS) has reached agreement on a common definition of sustainable and responsible investment (SRI) in advance of the 3rd Italian Sri Week, scheduled for early November.

“Sustainable and Responsible Investment is a medium to long term investment strategy which, in the evaluation of companies and institutions, combines the financial analysis with a robust environmental, social and governance (ESG) analysis, with the aim to create value to the benefit of investors and the society as a whole”

In a press release FFS Secretary General, Davide Dal Maso, states: ‘I believe this definition represents a good starting point and will give food for thought to the market players and the SRI community as a whole.’

Whilst Italy is perceived as lagging behind some other EU nations on development of SRI principles and ESG based engagement, progress is being made.

The Assofondipensione (Italian Pension Funds Association) has readied draft correspondence on behalf of Cometa Fondo Italys largest pension fund to go to all major banks requesting information on a range of climate financing and carbon risk issues.

As a starting point for collective actions and responsible investment, engaging with global banks on climate change would indicate the Italians believe its best to begin at the top of the mountain.

US

July

Walgreens Tries Inversion
SEC complaint filed over submerged briefing

Giant US based drug retailer Walgreens has come under investor pressure in its mooted takeover of Alliance Boots and redomiciling to Switzerland following a complaint to the SEC from The CtW Investment Group (CtW).

The CtW is requesting an investigation into an alleged breach of legislation which prevents inside information being preferentially distributed amongst some shareholders pointing to confidential meetings held with hedge funds and analysts to discuss a possible tax driven move following its acquisition of Swiss registered pharmaceutical company Alliance Boots GmbH.

The investor group, which coordinates shareholder engagement union based pension funds holding $250 AUM also charges that senior executives materially misled the public and investors by denying any plans to redomicile despite discussions with key investors around the matter.

“We are deeply troubled that Walgreens may have put the vast majority of its investors at a disadvantage while positioning influential hedge funds to profit from material, nonpublic information,” CtW senior researcher Michael Pryce-Jones said in a statement. “The issues described in the complaint raise broader concerns about management's accountability to shareholders at a time when a major strategic transformation is on the table.”.

The Walgreen controversy has again focused attention on a tax skirting tactic called ‘inversion’ where US companies merge with foreign rivals in countries with lower tax rates and then reincorporate there while still enjoying the benefits of doing a large part of their business and retaining corporate HQs in the United States.

Walgreen is reported to earn over 25% of revenue from the federal government and has been the beneficiary of state based tax credits and legislation to peg prices its key service providers can charge for credit card transactions.

The wider impact on the US tax base of such a move is estimated by Americans for Tax Fairness to cost American taxpayers $US4 billion over five years, with further impacts at its home base in Illinois.

Tax driven M&A activity should once more trigger questions from investors over long term strategies to create shareholder value. Walgreen has resisted efforts for more diversity in board representation despite a 43% vote in favour at the last AGM and basic governance questions remain.

August

White House gets going on Agriculture and Climate Risks

PRI dives into water resourcing to help keep investors afloat in a sea of uncertainty

The Principles for Responsible Investment (PRI) today launched a new investor-led collaborative engagement, focused on the water risks faced by companies in their agricultural supply chains.

The water focus coincides with a renewed push from the White House on climate risk issues as part of President Obama's Climate Data Initiative with 'Food Resilience' the next cab of the rank from the Administration following the initial attention on coastal risks and resilience.

The PRI is one of the major private sector participants in the initiative which encompasses a range of projects and activities with agricultural science, data practices, production and resource practices to build capability and capacity of the sector to meet and attempt to mitigate expected climate related impacts.

As part of the shift towards agricultural sustainability in the face of climate change, the PRI has today released a research report on water developed in collaboration with the World Wildlife Fund (WWF) and PwC Germany. The report highlights the risks to investors and underlying companies with guidance on shareholder engagement around changing water usage, scarcity and resourcing issues.

The PRI has also formed an investor group made up of Rockefeller & Co. and five European-based institutional investors comprising of PGGM, Aberdeen Asset Management, Hermes, MN, and Nordea to address the risks from climate change to companies with agricultural supply chains including users in food, beverage, and apparel sectors.

Using data from the World Wildlife Fund's (WWF) Water Risk Filter mapping tool and Pricewaterhouse Coopers' (PwC) ESCHER model, the investor group will engage approximately 50 major companies in to increase resilience to water risks and foster more informed investment decision-making.

"We are proud to launch this project to highlight the risks companies face in their supply chains. We welcome proactive dialogue between investors and businesses to stimulate improved transparency and risk management practices, and in turn promote resilience in food production in an increasingly water scarce world." PRI CEO Fiona Reynolds said.

US Proxy Season Shows some Promise
Remuneration, board reforms, ESG issues reflect investors priorities and pressures.

As the proxy voting season for corporate America winds down a plethora of detailed summaries and analysis are available for asset owners, stakeholders and shareholder activist groups to ponder.

Despite many of the hurdles that US shareholders must jump in order to place a resolution before a meeting progress on good governance is being made.

PIRC is pleased to note the continued focus on executive compensation and remuneration, in part driven by the 3rd year of 'Say on Pay' in operation and also by the pervasive community sentiment, not unique to the US, of excessive remuneration, share deals and other overly generous arrangements at the top of the corporate tree.

Reform of board representation, proxy access, annual voting procedures and declassification are showing fruit with a mixture of governance groups, investor coalitions and large pension funds helping drive changes.

As a positive, active engagement measures in advance of meetings as well as actual votes are bringing success. On the downside, problems still exist with 'zombie directors' explored elsewhere in this issue and both board tenure and hence opportunities to improve diversity are at best a work in progress.

A welcome development was the record level of ESG based proposals with climate issues around emissions, energy efficiency and sustainability taking up the lions share. Emissions measurement and reductions, risk assessments and improving overall sustainability reporting were prominent amongst shareholder concerns.

A group of 70 funds formed an investor coalition to make a coordinated effort in 2014 and both Exxon and Shell provided high profile examples that climate and carbon questions are now mainstream and permanent investment risk issues for global energy corporations and asset owners.

Even more pleasing was the focus on political donations, coming close behind environmental proposals as a key issue for votes.

The now infamous 'Citizens United' decision of the US Supreme Court has exacerbated an existing situation where corporate political donations and lobbying activities are not matched by transparency, disclosure and shareholder approval for material; levels of expenditure.

PIRC is of the view that good governance is built around shareholder accountability and disclosure. Political activities, direct or indirect should be subject to a level of scrutiny that robustly encompasses both principles.

Human rights particularly labour practices in supply chains also attracted attention from labour unions and investment activists.

As focus on this issue has a slow but steady momentum at international and national levels.

The increase in virtual meetings, run in tandem with the traditional style is another harbinger of the future.

On the negative side is the continued efforts by business lobbies to water down shareholder rights and restrict the operations of proxy advisers.

The intransigence over many reasonable corporate and financial sector reforms and the fierce opposition from some quarters to sensible climate mitigation and adaptation measures is not in the interests of long-term investors and need to be confronted.

Overall, engagement discussions between institutional owners, boards and management on a range of issues are a positive. As is the continued efforts to improve the ability place resolutions before annual meetings.

SWFs and the larger national and regional pension funds in many countries are now permanent fixtures on global corporate share registers, some with significant direct and indirect holdings. The intermediation of their views by asset managers is changing as many look directly to the corporations they own on behalf of beneficiaries.

In time, more institutional owners will begin to make decisions themselves on board representation, corporate strategy and longer-term risk management.

Some of the resolutions in the 2014 season in the US reflect this trend. The balance is unlikely to tip back the other way.

Walgreens Reverses on Inversion

Domestic pressure sinks tax driven domicile move but BEPS remains a global problem.

Grass roots campaigning and rising political concern over corporate tax dodging has caused Walgreens to reverse its decision to redomicile to Switzerland as part a foreshadowed merger with Alliance Boots. (See PIRC Alerts 22nd July 2014).

Walgreens' announcement came following sustained opposition by the CTW Investment Group (CTW),a grass roots campaign coordinated by Americans For Tax Fairness that saw over 300,000 people directly petitioning the Walgreens CEO and increasingly critical statements from Democrats, senior Treasury officials and President Obama.

The growing reputational damage and risk to the company's community licence overcame the attraction of a multi-billion dollar tax shuffle with the public controversy providing impetus to regulatory and legislative options to make inversion much less attractive for US Corporations.

The debate around inversion has been growing for some years with recent merger activity in the healthcare sector providing high profile examples.

The Washington Post has published a handy list of many inversions since 1983 noting the gradual shift from the Caribbean to Europe as Congress played catch up.

Michael Udell from the Washington based District Economics Group recently released a detailed policy paper calling for material transparency around the actual sources of domestic versus off-shore sales and profit generation and associated reform of US corporate taxation.

It is one of many options for real reform of US tax rules (and by extension international frameworks) that go further than the simplistic 'cut corporate rates' mantra so beloved of corporate lobbyists everywhere.

At their core all sound proposals for reform have some foundation in improving disclosure and restricting artificial transactions designed primarily to avoid the intent of existing taxation provisions in national jurisdictions.

As a matter of good governance, institutional investors and asset owners should be active in lobbying governments and international bodies for greater transparency around actual sources of profits and revenue and reducing the contribution of questionable artifice as opposed to the creation of sustainable value as an underlying driver of profit.

The Walgreen controversy has been helpful to draw further scrutiny on short term tax driven corporate merger strategies, one part of the wider international debate around Base Erosion and Profit Shifting (BEPS), on the agenda for consideration at the forthcoming November G20 Meeting in Brisbane.

Strengthening the sometimes wobbly resolve of national Governments to act, pushing back against the constant corporate lobbying to water down this round of potential G20 measures is an activity asset owners are uniquely positioned to undertake.

The veil needs lifting on a range of global corporate practices that are primarily focused on ‘gaming’ the system, legally or otherwise.

Time is running short to shine some brighter light into the darker corners of international tax structures, cross border corporate accounting and questionable governance.

Stiffening the resolve of national governments to act at the G20 should be a taxing the boards of institutional owners as a matter of urgency.

September

Northern Exposure for Rate Riggers

Tiny Alaskan pension fund seeks damages for interest rate swap fixing.

The Alaska Electrical Pension Fund (AEPF) has filed a lawsuit accusing 13 of the world’s largest banks of conspiring to manipulate the ‘ISDAfix’ benchmark rate, a daily rate used to price interest rate swaps, derivatives and corporate bonds.

Under question is a depressingly familiar list: Bank of America, Barclays, BNP Paribas, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, J.P. Morgan Chase, Nomura Holdings, Royal Bank of Scotland, UBS, Wells Fargo UK and broker-dealer ICAP PLC.

The list does not leave out many big names and with assets under management of just $US1.8billion, the AEPF’s case may be seen as David taking on a group of Goliaths.

Daniel L. Brockett, the pension fund's lawyer and partner at Quinn Emanuel Urquhart & Sullivan, said the pension fund's claim is 'a good case' and is supported by economic data and empirical evidence.

The pension fund claims that the banks influenced the rates in three ways.

It is alleged they carried out numerous quickly executed transactions just prior to the ISDAfix being set, a practice known as 'banging the close'. Banks also delayed the reporting of rates until after the rate was manipulated and engaged in posting reference rates that did not represent actual trades.

AEPF said that the banks communicated via electronic chat rooms and other means, submitting identical rate quotes from at least 2009. It cites one particular incident when there was a sudden fall in the 10-year interest swap rate only for it to suddenly recover without any clear explanation.

The AEPF's case is seeking to win compensation for members who were affected by the fixing between January 2006 and January 2014 and is the first brought by a private entity.

Reuters reports that the lawsuit was filed less than four hours after U.S. District Judge Denise Cote in Manhattan allowed other investors to pursue a lawsuit accusing 12 banks, most of which were also sued over ISDAfix, of fixing prices in the roughly $21 trillion credit default swaps market.

The issue is already under investigation by US regulators, including the Commodity Futures Trading Commission, and with many similarities to the LIBOR and the growing Forex rigging scandals, the record breaking fines for banks look set to continue into 2016 on top of the investor legal action just beginning to emerge.

AEPF is a very small Alaskan bear compared to some of the pension fund giants yet to come out of the woods.

Global

July

The Name's Bond, Green Bond
Market could grow but standards need solidification

Investor appetite for green bonds is set to grow according to the newly released 2014 State of the Market report from the pioneering Climate Bonds Initiative (CBI) with support from HSBC. In a comprehensive summary, the report outlines a total universe of bonds linked to climate change solutions at US$50.6b, outlining the emerging trends and who is investing what and where globally in this nascent asset class.
Low carbon transport investment, particularly rail projects, make up the lions share with 71% of investment, followed by clean energy at 15% and climate finance at 10%. Buildings and Industry, Agriculture, Waste & Pollution Control and Water make up the remainder to date.

'Investors are concerned about climate change. This report shows how they can invest in climate bonds without risk. The investment opportunities we find are safe and secure investment grade bonds. This is a Dull Green Market – just how pension funds and insurance funds like it.' Sean Kidney, CEO commented.

'In the coming year we will see growth in labelled Green Bonds from municipalities, cities and corporate issuers. We expect increasing demand from investors signed up to the Principles for Responsible Investment and the Global Investor Coalition on Climate Change.'

For institutional investors seeking long term opportunities that can incorporate ESG considerations Green Bonds may provide an attractive opportunity.

However investment governance questions still remain. The need for clarity around Guidelines and Standards was the subject of a January editorial in Responsible Investor following the earlier announcement by major international banks of voluntary Green Bond Principles 'to encourage transparency, disclosure and integrity in the development of the Green Bond market.'

This June feature from Keith Mullen at the International Financing Review discusses many of the due diligence and standards questions that require further development for the market to reach its potential. The issue becomes even more important when set around the headlines foreshadowing a $US1 trillion market in climate bonds and increasing calls to bridge the gap between institutional capital and international assessments of the cumulative trillions of investment needed to hold to a global 2 degree temperature increase.

For its part the Climate Bonds Initiative has been doggedly leading international debate and capital along the bond path, pointing to the requirement for public sector and government support, pushing to create a deeper more liquid market and building its own validation processes in conjunction with the stakeholders who will also be investees. The 'skin in the game' principle was boosted with today's announcement that EUR 44bn Netherlands fund manager ACTIAM had joined Climate Bonds Standard Industry Working Group to help develop green bonds eligibility criteria.

Institutional investors, pension funds and asset managers are increasingly putting their shoulders to the wheel here. The CBI has taken a lead in pointing to the future where ESG requirements more easily merge with investment returns. The issues they highlight may now be taken up and worked through with governments and stakeholders to help create, regulate and accelerate a sustainable climate bonds market.

Building a global, low risk, longer term series of investment opportunities has a wide circle of benefits and seemingly very little downside. It might even help save the planet.

August

Business, Human Rights and Supply Chains

AGM Spotlight on Ralph Lauren is a matter of good governance by investors.

In a further pointer to the linking of business activity and human rights, US peak labour body, the AFL-CIO, has written to all Ralph Lauren shareholders seeking approval at the August 7th AGM for a Human Rights Risks Assessment Report to be produced by 2015.

The correspondence notes the extensive global supply chain of the fashion house with 'over 700 different manufacturers worldwide' and '98% (by dollar value) of products produced outside the US.' It posits that the company 'is exposed to a variety of human rights risks from its global sourcing of products.'

There is also specific reference to the sourcing of materials from Bangladesh, scene of the Rana Plaza building fire and collapse in Dhaka that resulted in more 3,000 local workers killed and injured, noting that the Company has yet to sign the local Accord on Fire and Building Safety which has subsequently attracted support from over 150 international retailers and apparel brands.

The Board is opposing the resolution pointing to the company's Citizenship Report and existing policies and disclosure on human rights and supply chain management as sufficient evidence that the Company is upholding its human rights responsibilities.

The shareholder action is one reflection of a slow but steady trend towards using domestic legal tools to link management of business operations with meeting specific human rights obligations.

At a legislative level, California passed the Transparency in Supply Chains Act in 2010 and while there remain implementation problems compliance is growing.

In 2011, the UN Guiding Principles on Business and Human Rights (UNGP) endorsed by the Human Rights Council with support from business and NGOs was a momentous step, triggering the revision of other important and related international standards, including the OECD Guidelines for Multinational Enterprises and the International Finance Corporation's (World Bank) Performance Standards on Environmental and Social Sustainability.

In April, the European Parliament adopted a non-financial reporting directive, which includes human rights reporting and will have impacts for disclosure at the Member State level.

The UK Companies Act Regulations 2013 (Section 414C (7) (b) (iii) also calls for reporting on human rights issues in strategic reports.

The Modern Day Slavery Bill, currently before parliament, may have some deficiencies around disclosure but is a further example of important development at a nation state level relating to business and human rights.
June 2014 saw the Human Rights Council establishing a new inter-Governmental working group to develop "*an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights*."
Progress is inevitably slow with these agendas, but movement towards a legally binding instrument in this area at the international level is not insignificant.
Institutional investors and pension funds must develop knowledge and understanding of how human rights violations affect not only reputational profiles of their portfolio companies but matters of value too.
Investor understanding can be achieved. Supply chain disclosure around carbon emissions and wider aspects of climate risk are now mainstream and a must. Those companies resisting transparency will eventually become the ugly ducklings of most indices.
Water resourcing and agricultural resilience are next in line for attention.
Not far behind is the embedding of the UN Guiding Principles via various domestic standards and legislation and longer term potential for international law to be strengthened via a treaty.
In one sense, the AFL-CIO resolution is one minor straw in the wind, in another, part of a much wider expectation from a broad and varied community of stakeholders.
From start to finish in their supply chains companies are increasingly being held accountable for human rights abuses in far away places as the recent example involving UK supermarket chains and prawns sourced from Thailand demonstrates.
Asking questions now, adding human rights violations to the business risks that need exposure, disclosure and consideration is another area of good governance practice for investors, that may well be a legal requirement in the not to distant future.

Being ahead of that game is crucial.

Columbia steps up on Sustainability

Second Latin American exchange to join SSE Initiative, bigger indexes are still slow to move.

The Columbian Securities Exchange (BVC) the fourth largest in South America will partner with the Sustainable Stock Exchanges Initiative (SSE) becoming the second Latin index behind Brazil sign up to the UN Initiative.

The decision follows the LSE Group's SSE announcement in early June that saw the No11 Exchange in the world add its weight to pressure for improved ESG standards and disclosure.

Other Initiative members include India, South Africa, the NYSE Euronext and NASDAQ.

'BVC recognizes the relevance of sustainability for the private sector, which is why it has proposed raising initiatives to foster the knowledge and skills needed in the market to face the challenges of sustainable and responsible investment. All this, with the vision set on creating long-term value for the prosperity of Colombia and the region.' BVC CEO Juan Pablo Córdoba in making the announcement

The BVC has previously taken initial steps down the ESG path, joining with leading ESG research firm Sustainalytics and Deloitte to form the Latin American Sustainable Investment Forum (LatinSIF) in 2012 to help build responsible investment networks in the region.

More recently, the Forum has been coordinating a range of cross border investor engagement activities with the Principles for Responsible Investment (PRI).

The Exchange has also commissioned and released a wide-ranging report from Sustainalytics on the state of responsible investing across Latin American markets.

Though backed by a group of global sustainability heavyweights including the UN Finance Initiative UNCTAD and the PRI, the SSE has yet to reach critical mass across international exchanges.

Progress to date and expansion plans are to set be discussed at the Global Dialogue 2014 a part of the World Investment Forum in October.

As a 2013 Benchmarking Report into sustainability disclosure on world exchanges demonstrated, there is space for significant improvement.

PIRC looks forward to further announcements as other bourses follow the lead Columbia, Brazil, London and others have shown.

September

Tax Reform Focus as G20 Approaches

Transparency and disclosure around global tax and financial secrecy appears on investor radar

Institutional investor attention is finally turning to Base Erosion and Profit Shifting (**BEPS**) in the run up to the November **G20 Summit** in Brisbane, Australia.

While corporate **opposition** to the OECD **agenda** and **Action Plan** has been **constant**, many investor voices have yet to be as outspoken in supporting improved transparency and disclosure as a part of the reform agenda for the world's ramshackle international tax system. Some investors particularly in the US **feel conflicted**, preferring their government to make the running.

The €16billion Finnish state based pension fund VER thinks more could be done. A May report by corporate responsibility watchdog Finnwatch found that at least €37 billion out of an estimated €160 billion overall of Finnish pension funds' assets were invested in tax havens via registered investment funds.

Favoured tax shelters included Luxembourg, Ireland and Cayman Islands.

Based on the findings of this report, it is probable that the investments of pension providers and pension funds have been used in aggressive tax planning contrary with the purposes of tax laws at various points in the investment chain,' VER RI manager Tiina Tarma, told Citywide in late August.

‘The discussion going on within the ESG/SRI theme is whether it should include tax issues so that investors receive information regarding transparency. This debate has arisen in response to a number of high profile cases of tax avoidance from large corporations.’

‘Pension investors should add taxation to their responsibility policies and adopt tools for responsible investors to ensure responsible payment of taxes throughout the entire investment chain,’ Tarma said.

Leading global ESG group Principles For Responsible Investment (PRI) has also added a view to the mix in the lead up to the Summit.

Writing in Pensions and Investments Online chief executive Fiona Reynolds has urged international companies to pay their fair share of taxes, pointing to the reputational, legal and financial risks of aggressive tax strategies.

‘Investors are starting to focus on tax strategy as a material risk; many PRI signatories are engaging with companies on the issue. Engagement on tax is at an early stage. ‘

‘In most cases, investors are simply seeking to better understand management's approach to tax planning and its impact on other business decisions,’ she says.

A May report from UK based NGO Christian Aid revealed that FTSE 100 companies had over time created 29,891 subsidiaries with no public information available on over 20% of them.

The FTSE 100 sectors with most subsidiaries in highly secretive tax havens as defined by the Financial Secrecy Index were investment and finance with 37 per cent of their subsidiaries in such locations, banks on 28 per cent, mining companies at 19 per cent and real estate at 18 per cent.

‘What our findings show is that secrecy is not the exception but the norm, even among the largest 100 companies whose shares are traded on the London Stock Exchange, ‘Katherine Teague co-author of the report said.

‘These are household-name firms in which millions of people invest, through their pension funds and savings. But the secrecy is so deep and widespread that it is like a blindfold on everyone who has financial dealings with these companies.’

Amongst the OECD BEPS initiatives are measures to shine some light on banking secrecy in tax matters, announcing plans for a 'Global Standard' on automatic exchange of financial information, set to be presented to G20 Finance ministers at their preliminary meeting in late September prior to the November Summit.

But is it enough? Oxfam in their Business Amongst Friends report of May 2014 noted the force of corporate lobbying with the OECD had already influenced the dropping of a number of key measures to promote increased transparency and disclosure in the reform proposals.

A new paper entitled 'Public Pressure and Corporate Tax Behaviour' authored by US academics reinforces the view that pressure for disclosure can force a change in corporate taxation strategies and Australia's Lowy Institute has a similar approach, calling for greater weight to be placed on the power of transparency in preventing excessively aggressive corporate tax minimisation strategies.

At an institutional investor level, the debate over taxation reform is inextricably linked to the deeper issue of future global financial stability including 'too big to fail' and issues around systemic financial system risk.

Banking and corporate secrecy, opaque arrangements and a focus on aggressive tax avoidance strategies does little to lesson this systemic risk.

In the run up to the G20 a simple question needs to be asked of transnational companies, tax havens, big banks and the large audit firms:

'What have you got to hide and why?'

September

OECD outlines next steps in BEPS Battle

G20 Finance Ministers to consider new rules ahead of Brisbane Summit.

The OECD has unveiled a range of reform measures to international taxation rules that will be presented to Finance Ministers meeting in Australia on the 20th-21st of September as a precursor to the Leaders summit in late November.

Progress has been made on seven elements of the OECD 15 Point Action Plan of 2013 including measures to address arbitrage, opacity, treaty shopping and improve corporate reporting. In-principle agreement has been reached with 44 countries representing the overwhelming majority of the word economy.

According to today's announcement by OECD Secretary-General Angel Gurría:

'Tax evasion and avoidance have been depriving our governments of precious resources for decades. In the past years, our governments have been struggling to find the resources to jumpstart growth, to exit the crisis and to promote more and better jobs, while base erosion and profit shifting practices weakened these efforts. I am delighted to announce the beginning of the end of these corrosive practices.'

The first 7 elements of the Action Plan, released in Paris today focus on helping countries to:

- ensure the coherence of corporate income taxation at the international level, through new model tax and treaty provisions to neutralise hybrid mismatch arrangements (Action 2);
- realign taxation and relevant substance to restore the intended benefits of international standards and to prevent the abuse of tax treaties (Action 6);
- assure that transfer pricing outcomes are in line with value creation, through actions to address transfer pricing issues in the key area of intangibles (Action 8);
- improve transparency for tax administrations and increase certainty and predictability for taxpayers through improved transfer pricing documentation and a template for country-by-country reporting (Action 13);
- address the challenges of the digital economy (Action 1);
- facilitate swift implementation of the BEPS actions through a report on the feasibility of developing a multilateral instrument to amend bilateral tax treaties (Action 15); and
- counter harmful tax practices (Action 5).'

A handy 3 minute YouTube clip is also available as an alternative to the background OECD reports on Base Erosion and Profit Shifting.

While PIRC welcomes any progress on global financial reform, implementation remains a key weakness with legislative and regulatory change required by domestic jurisdictions and amendments to various tax treaties.

However, sceptics will note the corporate supporters of inertia and the status quo particularly those in the US have shown a remarkable ability over the last decade to derail various initiatives and lobby national governments to defer or delay action.

The OECD announcement diplomatically intimates some of the obstacles that still lie ahead:
'These recommendations may be impacted by decisions taken with respect to the remaining elements of the BEPS Action Plan, which are scheduled to be presented to G20 Governments for final approval in 2015. At that point Governments will also address implementation measures for the Action Plan as a whole.'

Whilst these announcements are a step, actual implementation of tangible reforms, transparency measures and credible disclosure is another. There are significant parts of the Action Plan still to be resolved.

We will keep the bubbly on ice for the time being.

Sustainability outperforms

Sustainability and performance go hand-in-hand.

A seminal new paper reviewing the analysis of over 190 studies of sustainability and its relationship with corporate performance has concluded that there is 'remarkable correlation' between the two factors.

The meta-study titled, From the Stockholder to the Stakeholder is co-authored by the Smith School of Enterprise and the Environment, part of the University of Oxford, and Arabesque Asset Management.

With debate intensifying over the ongoing links between sustainability and long term performance, the report attempts to bring together previous research on the subject. It concludes that the majority of studies find that implementing sustainability practices improve performance in both an operational sense and in overall investment performance.

The eight main highlights of the report are as follows:

- Sustainability is one of the most significant trends in financial markets for decades.

- The report represents the most comprehensive knowledge base on sustainability to date, based on more than 190 academic studies, industry reports, articles, and books.

- 90% of the studies on the cost of capital show that sound sustainability standards lower the cost of capital of companies.

- 88% of the research shows that solid ESG practices result in better operational performance of firms.

- 80% of the studies show that stock price performance of companies is positively influenced by good sustainability practices.

- Based on the economic impact, it is in the best interest of investors and corporate managers to incorporate sustainability considerations into their decision making processes.

- Active ownership allows investors to influence corporate behaviour and benefit from improvements in sustainable business practices.

- The future of sustainable investing is likely to be active ownership by multiple stakeholder groups including investors and consumers.

One of the more salient points made is the role that beneficiaries of pension funds can play, that it is in their interest to push companies to act more responsibly so that they generate better returns for savings and pensions as well as preserving the state of the world.

'Active ownership is a powerful tool. However, in its current form, it lacks the structural support of a key stakeholder group: the customer of the invested companies. The future of active ownership will most likely be one where multiple stakeholders such as individual investors and consumers are involved in setting the agenda for the active ownership strategy of institutional investors' it concludes.

The pain of short termism, excessive risk taking, and ignoring externalities has been felt by both institutional investors and their beneficiaries via the global financial crisis.

Forward-looking pension funds are now seeking more influence in their desire for long-term value creation. Civil society also sees corporate transparency, disclosure and higher ethical standards as implicit in the licence to operate.

Companies who believe sustainability, ESG & social expectations can be ameliorated in the short term miss the point.

The long term is here, ready or not.

Asia

July

ACSI Pushes on Sustainability Risks

Australia's top 250 companies subject to scrutiny and new regulations.

The influential Australian Council of Superannuation Investors (ACSI) has just released its seventh report on Sustainability Risk Disclosure Among ASX 200 companies.

The ACSI research reveals that 40% of the ASX 200 remain rated in the lowest categories of disclosure in a five level system, a somewhat disappointing result despite an overall positive trend.

On the positive side, 85% of companies provided some level of reporting on sustainability factors and almost 50% provided a response to the Carbon Disclosure Project (CDP) with 85% of those companies subsequently disclosing their responses.

"Investors, such as ACSI's members, need meaningful, accurate, timely and comparable data to help them Identify and manage their exposure to ESG investment risks as they make decisions about selection and weighting of stocks in their portfolios. This information is also a crucial input into investors' processes for engaging with companies and exercising their ownership rights," CEO Gordon Haggert said.

In recent years, pressure has been slowly rising on corporate Australia to improve risk assessment and disclosure of ESG related issues. ACSI produced its first report in 2008 covering the ASX 100 and subsequently expanded its scope in 2009.

In 2011, ACSI and the Financial Services Council (FSC) the peak body for asset managers and retail investor organisations released a joint ESG Reporting Guide for Australian companies.

In March 2013 the corporate regulator ASIC released its Regulatory Guide 247 which amongst other governance changes required company annual reports 'include a discussion of environmental and other sustainability risks where those risks could affect the entity's achievement of its financial performance or outcomes disclosed, taking into account the nature and business of the entity and its business strategy.'

New Australian Stock Exchange (ASX) guidelines applying from July 2014 recommend companies consider sustainability risks under revised Corporate Governance Principles. The ASX proposes that "a listed entity should disclose whether and if so how, it has regard to economic, environmental and social sustainability risks." However the requirement is not mandatory, operating on an 'if not-why not basis.'

ACSI, backed by many of Australia largest mutual based pension funds has been slowly toughening its policy in this area, adopting a name and shame approach to corporate laggards.

While the combination of changes moves Australia closer to some internationals standards this latest report shows more work is needed.

Australia is now the 12th largest economy in the world. Though still dwarfed by the majors, it is the single largest exporter of coal and iron ore and a major resources and energy supplier. Banking, resources and media stocks dominate the local exchange.

The Towers Watson Global Pensions Asset Study 2014, reports Australian pension assets as the 4th largest in the world at $US1.6t, experience high growth rates thanks to the system of compulsory employer pension contributions currently set at 9.5% and legislated to reach 12% over the next decade.

With Australian pension funds having a comparatively high level of exposure to domestic and global equities and a rising inflow, investment risk management, particularly around current and future sustainability questions should remain high on the governance agenda.

The decision by the new Australian government to repeal domestic carbon pricing has brought undone one economy wide partial hedge against asset mispricing risk, will slow general adaptation measures and removes an underlying incentive for companies to lift their internal level of analysis.

ACSI has foreshadowed it will continue to name and shame companies that are lagging in sustainability disclosure. Will this be enough to push the existing 40% of slow movers further up the ladder?

The level of preparedness of the huge, fast growing mutual funds that are the primary backers of ACSI to make good the ASIC and ASX changes direct with local companies and asset managers will become even more integral to improving local and ultimately international ESG standards.

Shareholders stall remuneration bid at Tata

India's leading car manufacturer sees executive pay resolutions rejected and share price improve

Shareholders of India's largest carmaker, Tata Motors have rejected the excess compensation arrangements for three of its directors via a postal ballot.

Tata had been required to obtain shareholder approval for the increases due to inadequacy of profits following a trading loss for the year-end March 31st 2014. Corporate law changes from last year limit remuneration paid to 'whole-time' directors is more than five percent of net income if profit is low or non-existant. In Tata's case of no profits, it may pay up to 4.8 million rupees with any excess needing to be approved by shareholders.

In a notice to the Bombay Stock Exchange (BSE) Tata advised it failed to reach the 75 percent threshold needed to pass the special resolutions which concerned the remuneration of two senior executives and beneficiaries of the late Managing Director Karl Slym

As payments were made prior to the shareholder vote the embarrassing prospect of returning the funds arises.

Almost 30 percent of shareholders voted against the resolutions with over 64 percent of the key institutional investors who own 37 percent of the company voting against.

Markets initially reacted well with the company's shares rising 3.03 percent upon the news.

The development has wider ramifications, Anil Singhvi from Institutional Investor Advisory Services, a leading shareholder advisory firm told the India Times following the result: "The event at Tata Motors should not be taken as an event of a company having lost three resolutions, but as a major event for all corporates in India to not take shareholders votes at AGMs for granted. The resolutions which were put to vote and defeated in Tata Motors were hitherto considered ordinary business by the board of directors, to be left to the company secretary to prepare the notice of the AGM and obtain the vote."

Indian proxy advisory service InGovern said, "Companies should recognize that minority investors are increasingly assertive on company matters and companies should, in the interest of good corporate governance, take the views of these investors into account when putting forth various proposals."

"The company takes cognisance of the shareholders' views; at the same time, it is necessary to balance this with recruiting and retaining an industry-proven management team through the long-term.' A spokesperson told Reuters.

Australia Reins in Exec Pay

Legislation with teeth puts the bite on excessive payments and builds shareholder engagement

The annual survey by the influential Australian Council of Superannuation Investors (ACSI) details some impressive figures in the battle to rein in excessive 'golden parachutes' and overall executive remuneration.

The 13th Annual ACSI Survey of Chief Executive Remuneration reveals that termination payments have shrunk by nearly 70% in the past five years with the median payment to chief executives falling to A$1.3m in 2013, from A$35 m in 2008.

Average statutory pay for CEOs at $A4.84m is still high at sixty times average weekly earnings (AWE) but is at its lowest level in a decade and 33% below the 2007 peak of ninety times AWE.
ACSI chief executive, Gordon Hagart, said the study findings showed the benefit of investor scrutiny: 'When investors behave like owners, and make it clear to boards their expectations around executive pay, Australian boards generally respond.'

Australia's groundbreaking 'Two Strikes' legislation of 2009, now in its third year of operation at public company AGMs is the platform being used to more closely align shareholder interests with remuneration. However the story of how Australia adopted such an active corporate governance measure starts at the tail end of the 1990s.

Executive salaries took off in Australia following the 1998 appointment of American Paul Anderson as first foreign head of the iconic BHP, Australia's premier blue chip company, dominant in minerals, oil & gas, iron & steel & a host of associated subsidiaries.

The new tone became evident when BHP made a record A$11.1million redundancy payment to Andersons predecessor, John Prescott, sparking criticism from local unions who highlighted BHP's A$1.47billion operating loss for the 1997-98 year.

Undaunted, the Board set Anderson's starting salary package at around two hundred times AWE, a jump from BHP's previous standard of less than 50 times earnings, all helpfully plotted in a seminal study of 110 years of BHP remuneration by Labour MP Andrew Leigh.

This very public move by the 'Big Australian' sharply accelerated the previous slow rise in executive and director fees that had emerged in the early 90s.

Anderson's starting salary stirred a measure of public comment and he was dubbed the $8 Million Dollar Man by BHP's largest union pre-arrival in 1998 and then more derisively labelled on departure as the $17 Million Dollar Man a reflection on the overall value of his termination payment as BHP merged with Billiton in 2002 to create a global resources behemoth.

By then, the floodgates had opened. The example BHP had set was swiftly replicated. CEO salaries sat around fifty five times AWE in 2001 and lifted to sixty nine times by 2004.

To deflect rising community concern and nascent pressure from some institutional shareholders the then government introduced a shareholder advisory vote on remuneration in 2004 and additional disclosure as part of the 'CLERP 9' overhaul to corporate law. Australia business leaders responded in kind with CEO base pay increasing to eighty one times AWE by 2006, peaking at ninety four times AWE in 2007. The global financial crisis engendered some moderation with base pay slipping back to a relatively meagre 84 times by 2008.

The 2007 change of Government heralded the next stage of legislative reform. New Legislation in 2009 significantly expanded the scope and criteria for shareholder approval of termination pay was passed in the face of vociferous opposition from the business sector and lobby groups.

Following an extensive enquiry by the independent Productivity Commission 2011 then saw the passage of the now infamous 'Two Strikes' rule. In simple terms if a remuneration report received a no vote of 25% or more at two consecutive AGMS companies were required to put a motion to 'spill' (enforced re-election) of the entire board at the 2nd meeting.

Again, business condemned the changes with one senior corporate leader making the risible suggestion that investors should simply exit equity market holdings if they didn't agree with board determinations on remuneration.

The 2011 legislation should have come as no surprise. Executive pay had been a contested and controversial issue in Australia for well over a decade and ACSI, backed by the nation's mutual based industry superannuation (pension) funds has taken an active role on remuneration issues.

The mutual pension funds provided a base of votes at AGMs where remuneration was deemed excessive and with ACSI, engaged more actively with asset managers on governance matters matching their growing size and sophistication.

A change of government in 2007 was pivotal in giving impetus to reform. The administration was elected with an explicit policy position to give shareholders a greater say on executive remuneration, a corporate governance issue that had long moved from the business sections of newspapers into the mainstream with widespread public recognition and support.

Corporate Australia, in opposing both the 2004, 2009 and 2011 laws had consistently occupied a fundamentally conflicted position. The domestic captains of industry and commerce had spent the last 15 years repeatedly advocating wholesale deregulation of industrial relations and workplace laws.

Simultaneously, vigorously opposing regulation or greater shareholder influence on remuneration structures and defending huge increases in executive pay arrangements and director fees often unrelated to financial performance.

Public opinion was behind the Government on the 2009 and 2011 legislation and three years on the results are both measurable and positive.

Business warnings of an exodus of executives and directors to off-shore roles have not been realised, nor have the wild predictions that giving shareholders a lower threshold and a direct say on remuneration would render boards unstable, AGMs unmanageable and senior roles unfilled.

Australian law contrasts with the US Dodd-Frank Act that gives an advisory vote to shareholders with ‘say on pay’ at publicly listed companies with additional reporting and the UK legislation, applying from October 2013, requiring more disclosure and a watered down binding vote process.

ACSI CEO Gordon Haggert characterised the gradual shift in these terms:

‘ACSI observes that increased investor engagement, combined with the work of more active boards, has resulted in better remuneration packages that improve alignment between executives and the providers of capital. We have seen fewer votes against remuneration reports over the past year as remuneration packages have improved in the market.’

‘Specific improvements include the major reduction in termination payments, more demanding bonus hurdles, longer performance measurement periods and an end to the culture where bonuses were seen as entitlement rather than reward for outperformance.’

Notwithstanding executive pay in Australia is still excessive, from a governance perspective, the say on termination provisions and three years of direct shareholder votes have seen the beginning of a much deeper process to gradually re-align remuneration with institutional and asset owner interests of sustainable long term value creation.

The voting reforms have been effective in driving greater engagement between boards, asset owners, managers and proxy advisers.

Ian Woods Head of Governance at AMP Capital bluntly puts it this way ‘Five years ago, the chairs wouldn’t return my calls about the remuneration report, today they are calling me.’

SSE Initiative Gains Toehold in Asia

Thai Exchange Joins Sustainable Stock Exchange Network with commitment to promoting sustainable development

The Stock Exchange of Thailand (SET) has joined 12 other leading exchanges in signing up to the SSE Initiative.

‘To be the first exchange in ASEAN joining the SSE initiative reinforces our regional leadership and will enhance SET international recognition. SET Chair Sathit Limpongpan said, ‘This follows SET’s currently remarkable sustainable development in the region, proven records by achieving the top ASEAN corporate governance score for two years in a row (2013-2014), being Asia’s top score of Corporate Governance – Report on the Observance of Standards and Codes, as assessed by the World Bank. We therefore welcome this initiative as it will allow us to share and learn the best practice with other exchanges.’

SET President Kesara Manchusree said that ‘The Thai bourse has created its own sustainability development framework, aiming to enhance all dimensions of quality towards sustainability of the Thai capital market, economy, society, and environment. It would focus on five key areas, namely market value, business operations, employees, society, and environment. SET would soon establish a working group to substantially construct short, medium and long-term plans for these five key areas.’

The announcement follows the Columbian Securities Exchange (BVC) announcement of July 2014 and the June LSE Group decision to partner with the SSE.

The Thai decision adds further momentum for the SSE Initiative, initially launched in 2009, which has successfully built engagement with 12 stock exchanges worldwide and is backed by a group of global sustainability heavyweights including UNCTAD, the UN Finance Initiative and the Principles for Responsible Investment (PRI).

Japan

Third Arrow Strikes

Abe announces plans to introduce corporate governance code

The Japanese government formally announced plans to launch a new corporate governance code as part of its Revitalisation Strategy.

The announcement was made live on television as part of Prime Minister Shinzo Abe's 'third arrow' of reforms to improve the Japanese economy through a series of measures to stimulate growth, shake up the moribund economy and open a stultified business culture. (See PIRC Alerts 24/07 and 22/01)

The code is to be developed by the Tokyo Stock Exchange and is expected to take effect next year. In a similar vein to many corporate governance practices worldwide, it will operate on a 'comply or explain' basis. Coupled with the newly introduced Stewardship Code it may help achieve the improved governance standards that both Abe and many foreign investors are looking for.

"We want to establish this code because we believe lean, energetic and healthy companies are going to restore Japan's competitiveness," said Yasuhisa Shiozaki, a Liberal Democrat Party lawmaker.

One focus is on increasing the number of non-executive directors in local companies. Historically, Japanese boards have had few if any independent directors and poor levels shareholder engagement and disclosure.

However, this has not been met positively by all. The peak business lobby Keidanren, has opposed the idea with managing director, Yasuhisa Abe stating "There is absolutely no basis for the argument that companies with outside directors perform better."

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