

COMMITTEE  
ON  
THE FINANCIAL ASPECTS  
OF CORPORATE GOVERNANCE

c/o The London Stock Exchange  
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19 August 1994

Sir Adrian Cadbury  
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*Dear Sir Adrian*

Just a few items of mail to forward to you before I go on holiday.

Firstly, an invitation from the ACCA to speak at an awards ceremony in Birmingham. I have spoken to Ros Leah on the phone, and they are very keen for you to accept, in that they want to have someone with strong West Midlands connections.

Another invitation has come from Nigel Macdonald to attend a discussion dinner (in London) held by the ICAS. I have advised his secretary that your diary this autumn is very full - but spring seems to be filling up as well doesn't it? I have not of course committed you in any way, and if you could let Sarah know whether you would wish to take this on, she can be advise Nigel's secretary when she contacts this office next week.

I have spoken to Roger Lawson's Secretary at the ICAEW and explained that you would be unable to attend the proposed meeting on 4 October due to other commitments. Mr Lawson is on holiday until 30 August so she was unable to give a definite decision on your suggestion for a meeting later in the month. She will come back to me at the beginning of September. I have also just received a copy of a letter from Bill Plaistowe concerning the need to co-ordinate publication of the two sets of guidance on going concern. A copy is enclosed herewith. I cannot see any reason why the Going Concern Working Party should wish to steal a march on the APB and have had no indication from the Secretary that they are keen to publish in advance of them. Would it be out of place to write to the Chairmen of both working groups to advise that, although you will not be able to be present at the 4 October meeting, you would very much support their co-operation on publication of their respective sets of guidance. As you know, we are due to discuss this at our Committee meeting on 14 September so could raise the appropriateness of such a letter at that point.

I have been contacted by someone in the listing Department here at the Stock Exchange, who in turn has been having discussions with a member of the ASB's Urgent Issues Task Force. You are probably aware that the UITF recently tackled the subject of directors' stock options, but were advised that the action they proposed would be illegal. They are therefore re-drafting their guidance on this. It appears that the ASB do not wish to make this an Accounting Standard and the UITF approached the Exchange to see if, when finalised, it could be made a listing requirement. As there is a parallel between the guidance and paragraph 3.2 of the Code, one line the Exchange could take is to state that if companies followed the UITF guidance, they would ensure full compliance with the Code in relation to disclosure of stock options.

I think that this is something which will need to be discussed by the full Committee, and have asked that the UITF should contact us direct so that a copy of their proposals can be circulated to members for discussion on how they can best be enforced, and whether the Committee could play a role. If my reading of the Stock Exchange's position is correct, they would be reluctant to make the guidance a listing obligation in its own right, and would prefer to relate it in some way to a statement of compliance with the Code.

You have received a further letter from Mr Hardy on the subject of outside directors, which I am enclosing. I have my suspicions about him. If he is writing as a private individual (as would be suggested by putting his home address on his letters), why is he sending his letters through the company post (Ibstock plc) and having them pp'd instead of signing them himself? Do you think he has a hidden agenda? He is obviously trying to pin you down into making a statement on the amount of shareholdings a director can have whilst remaining independent. I am sure you will resist this.

Finally, I have received through the post a photocopy of the entire consultation paper "Better Accounting for the Taxpayer's Money : Resource Accounting and Budgeting in Government". There was no covering letter or indication of who sent it to you. Is this something that you have requested? If so, Sarah will send it on to you, otherwise we will keep it here as it runs to nearly 60 pages!

With best wishes

*Oliver*

\* I've checked Ibstock's Annual Report and there is no individual shareholding of 18% - nor is Mr Hardy a director.

Stephen Hardy  
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18 August 1994

Sir A Cadbury  
Committee on The Financial  
Aspects of Corporate Governance  
c/o The London Stock Exchange  
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Dear Sir Adrian

Thank you for your response dated 2 August to my previous letter. Whilst I appreciate I may have raised an issue which you have not previously considered, I do feel what you say in your second paragraph is with respect failing to address the real concern. As you yourself say the purpose was to have sufficient independent non executive directors to provide an effective audit committee and I would question whether anyone who in the instance I quote has an 18% shareholding, can in those senses be deemed, particularly to the minority shareholders truly independent. If disclosure is the only sanction, then surely this would not prevent the non executive director having a controlling interest.

If your personal suggestion of an outside director is accepted surely to be there would have to be a limit on the percentage of shares owned by such a director. I accept that the director may indeed have some shares in the company but any interest which for the sake of argument goes above that which would be required to be notified to the Stock Exchange, would it seems to me render that director no longer capable of being "outside".

I would appreciate your further observations.

Yours sincerely

*I. Morris*

PP STEPHEN HARDY

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25 July 1994

Sir A Cadbury  
Corporate Governant Committee  
The Stock Exchange  
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Dear Sir

Non Executive Directors and Shareholdings

I am not certain whether your Committee has every investigated the situation where a non executive director who is clearly labelled as such holds a significant shareholding in a public company. I am aware of at least one company where it would appear from their latest set of accounts that one non executive director is disclosed as holding at least through beneficial and trust holdings some 18.5% of the total number of shares in issue.

It does seem to me that such a substantial shareholding pushes the interest of such a holder to something more than "non executive".

I would appreciate your comments on this point.

Yours faithfully

*Stephen Hardy*

STEPHEN HARDY