Stewardship – chickens coming home to roost
Directors strike the jackpot at Persimmon

by Peter Parry

It is considered unsporting in shooting circles to shoot birds on the roost but sometimes the shot is so easy and the birds are so stupid that it is hard to resist. In this instance the 'birds' were the major shareholders in Persimmon, which included Aberdeen Standard – formerly Aberdeen Asset Management. Members may remember that, when the proposed LTIP for Persimmon Directors and senior managers was approved by the major shareholders in 2012, UKSA wrote to them asking why they had approved it. It was clearly flawed, offering the potential for huge rewards to be handed out to directors and senior managers primarily for distributing dividends. Axa was the only major investor that voted against it.

Responding to UKSA's enquiry in February 2013, Aberdeen gave a number of dubious reasons justifying their support of the scheme. They also added: *'Part of our responsibility as long-term investors is to police the scheme and hold management to account; if it appears that not just the letter but also the spirit of the scheme is being breached then we will look to take appropriate action.'*

Persimmon made headlines recently when, much as UKSA had predicted, the Company's LTIP paid out over £110 million to chief executive Jeff Fairburn. In total, directors and senior managers in the Company are in line to receive £750 million.

So what was Aberdeen's response to all this? An article in the Financial Times on 22 February this year stated: *"Aberdeen Standard Investments, the Company's (Persimmon's) sixth-largest shareholder, criticised Jeff Fairburn's bonus as grossly excessive."*

Aberdeen's self-righteous indignation smacks of utter hypocrisy. If Aberdeen was such a committed and responsible long-term investor, what on earth was it doing sitting back and watching while the Persimmon LTIP spiralled out of control? It certainly calls into question their suitability to be the stewards of other people's money.

With Aberdeen squarely in the cross-hairs, all I had to do was draft a withering letter to the Financial Times and, so to speak, pull the trigger. The letter was published on 9 March (https://tinyurl.com/uksapersimmon). It was well-received and I enjoyed an undeserved accolade for sending it. I say 'undeserved' because all the hard work had been done by people like Eric Chalker and John Hunter who had been tracking the unfolding scandal of the Persimmon LTIP since its inception in 2012. Drafting the letter to the FT was the easy bit.

Cut-and-paste stewardship reporting

Later this year the Financial Reporting Council will be launching a consultation on revisions to the Stewardship Code. There were a number of 'advance' questions about possible changes to the Code in the recent consultation on the Corporate Governance Code. The joint UKSA/ShareSoc response can be found on the UKSA website at https://tinyurl.com/uksastewardship

This has provided an opportunity to 'limber up' ready for the main event on Stewardship. I have started a scrapbook which already has some good cuttings.

The first cutting involves a piece of research sent to me by Sarah Wilson of Manifest, the proxy voting agency. Sarah has forwarded research undertaken by Tim Powdrill at the International Transport Workers' Federation. The ITF has uncovered over 30 examples of Stewardship Code statements published by fund managers that contain similar or, in some cases, identical text. In every case the statements, which are a regulatory requirement under the Financial Conduct Authority's Conduct of Business rules, are used to explain why those managers do

not comply with the Code. The ITF is concerned that these investors provide meaningless reporting to justify not complying with the Stewardship Code, or similar initiatives elsewhere. This leaves investors and the wider public in the dark about how these managers actually approach their interactions with companies. This is an issue which UKSA will certainly be raising when it responds to the Stewardship consultation.

Reappointment of the auditors; the monster-raving-loony vote

My second cutting is from Jonathan Ford's column in the FT on Monday, 19 March. Mr Ford picks up on a recent suggestion by Stephen Haddrill, who heads the FRC, that, in the wake of recent audit scandals, the competition authorities should look again at whether the 'Big Four' auditors should be broken up into consultancy and audit-only businesses.

As Mr Ford notes, there is nothing wrong with proposing anti-trust action against the accountancy profession. It is heavily concentrated on a few big firms whose independence and objectivity could be compromised by the lucrative non-audit work they do for clients. Their independence has been called into question by a series of accounting scandals including at Carillion in the UK, BT's Italian unit, Steinhoff of South Africa and Wells Fargo in the US.

However, he goes on to note that, as Natasha Landell-Mills of Sarasin has pointed out, the major investors are often unaccountably supine even in the face of failings that demonstrably hurt their interests – not to mention those of their clients. At Wells Fargo millions of new customer accounts were fraudulently opened by staff to meet internal performance targets. Despite the fact that the fraud was shown to have continued over a fifteen-year period, KPMG were reappointed as the auditors with a 97% vote in favour. At BT, where a £530 million write-down was announced because of accounting misstatements at its Italian business, the auditors, PWC, were not sanctioned by investors. Far from it; they were reappointed with more than 75% supporting. It was a similar story at Domino's Pizza. The auditors for the last sixteen years, EY, had their contract renewed by a 97% vote despite the news that the chain had paid illegal dividends for ten of those years. There is no reason why any of this should be so. Investors are free to set standards for audit firms and, if these are not met, to vote for their dismissal.

This all reflects the dismal standards of stewardship shown by many of the large funds. Too much of what is currently required for compliance with the Stewardship Code involves simply demonstrating that, as a fund manager, you are doing nothing more than exercising your vote – or getting a proxy to exercise it for you. Whether the way the vote was exercised makes any sense seems to be irrelevant.

The FRC may have felt that the Corporate Governance Code only needed minor updates. It is clear that the Stewardship Code requires fundamental overhaul. UKSA and ShareSoc will be preparing a joint response to the consultation when it comes out. *Members are encouraged to send us their views on current standards of stewardship, examples of failings and what should be done to address them.*

Save the Date – 3 July – What auditors do all day!

On Tuesday, 3 July PWC will be running a half-day event for UKSA and ShareSoc members on the world of audit. The event will be held at PWC's offices at 1 Embankment Place (off Villiers Street), London. The afternoon will start with registration and lunch from 12.30 p.m. and will finish at about 4.30 p.m.

The full programme will be circulated nearer the time, but it will include sessions on the role of audit and the future of audit. Following recent cases in which company audits are widely believed to have been deficient, this should be an interesting and lively session. PWC are expecting plenty of questions from members.

There should be plenty of places for all those who wish to attend. Further details of the programme for the afternoon will follow.