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Cc: Joëlle Simon, Director of Legal Affairs, MEDEF

Dear Sir/Madam

RE: CONSULTATION RESPONSE TO CHANGES TO THE AFEP-MEDEF CORPORATE GOVERNANCE CODE

Legal & General Investment Management (LGIM) is one of the largest international investors globally with over EUR 1.1tn of assets under management (as at 31 December 2017). We manage assets for a wide range of global clients, including pension schemes, sovereign wealth funds, fund distributors and retail investors.

In France, we hold approximately EUR 11.75bn in equity investments and are significant owners of fixed income assets. As a sizeable investor for many years, there is a responsibility to ensure that global markets operate efficiently and uphold the highest level of transparency to protect the integrity over the long term. Therefore, the opportunity to respond to the consultation by the Association Française des Entreprises Privées (AFEP) and the Mouvement des Entreprises de France (MEDEF) on the French Corporate Governance Code for listed corporations is very important to LGIM.

LGIM's approach to good investment stewardship

Over the past 40 years, LGIM has built a business through understanding what matters most to clients (both institutional and retail) and transforming this insight in to valuable, accessible investment products and solutions. This enables pension funds to meet their key long-term financial objective of ensuring fund assets match future financial liabilities and pay pensions.

We believe good stewardship aims to promote the long term success of companies in such a way that the ultimate providers of capital also prosper. By using our scale and influence, we take an active ownership approach to bring about real positive change to create sustainable value. Therefore, the consideration of environmental, social and governance issues play a key role in long term risk management and promoting opportunities in generating investor value.

As a large shareholder in many French companies, **our corporate governance activities are based on building long term relationships with issuers.** We engage constructively and aim to be clear in our communication. Furthermore, company engagement is an important part of gaining valuable insight in to a company's activities and therefore is a **vital part of our investment process.**

In promoting good corporate governance frameworks globally, the ability to respond to public consultations is essential. It gives us the **opportunity to provide an investor perspective of how regulation and market structures can be reformed to protect market participants and create long-term value**. As a result, we welcome the translation of this consultation in to English as it enables foreign investors such as LGIM to be able to participate in the debate and provide feedback on the changes to the code.

LGIMs recommendations

We have divided comments to your consultation in to two main sections:

- Appendix 1 – in this section we have outlined our views on the current corporate governance framework and how it can be further improved using different market reforms and mechanisms. **We recommend a fundamental review of how the French Corporate Governance Code is drafted to ensure that material issues are considered and fed in to the code by different stakeholders.**

As well as allowing for a more inclusive process in the development of the code, LGIM also believes that the application and implementation of the code can be more robust. Therefore, **we recommend an independent review to examine whether legal or market rules should be amended to reinforce the importance of the code.**

- Appendix 2 - we have outlined some key points we would like the AFEP and MEDEF to consider for inclusion in the Corporate Governance Code. These specific recommendations will strengthen and enhance the corporate governance structure in France. Furthermore, these points have been drawn from observations in other markets and will maximise the protection to long term minority investors such as LGIM. The main areas we highlight are:
 - a) **Fostering greater dialogue** directly between board members and investors
 - b) A **two-tier voting regime** for controlled companies
 - c) Raising the profile of the **Lead Independent Director**
 - d) **Shortening director term limits** to 3 years; and
 - e) **Greater independence** on boards and committees.

We hope you will find that we have been constructive in suggesting further improvements to the French Corporate Governance framework. We remain at your disposal should you wish to discuss any of the points we have raised and are happy to engage in further dialogue to provide more input.

Yours sincerely,



Sacha Sadan
Director of Corporate Governance
LGIM

Appendix 1

Introduction

LGIM welcomes the opportunity to formally shape the development of the French Corporate Governance Code. We view this as an opportunity for investors to participate in re-creating a globally leading corporate governance code to meet the changing needs of businesses.

In order for the French Corporate Governance Code to be effective in guiding companies and managing the expectation of investors in creating a strong corporate governance framework, a review of the development of the code needs to be held in order to ensure that it is operating efficiently. Below we highlight two key areas for consideration:

1) Establish an independent process to draft and review the corporate governance code

The ownership and development of the French corporate governance code is currently the responsibility of the AFEP and MEDEF, two bodies representing issuers. This singularity was recently highlighted in the comparative study undertaken by the Autorité des Marchés Financiers (AMF) in 2016 on the corporate governance codes of 10 European countries¹; *“France, where the code is drafted only by professional associations representing issuers, appears to be the exception.”*

Whilst all other stakeholders are involved in the consultation process, we believe there is an opportunity to significantly expand and enable other market participants to feed in to the revision of the code. This is, again, a singularity of the French corporate governance system;

“Lastly, in most of the countries considered, amendments to the code are subject to a prior public consultation on the website of the entity responsible for drafting the code. In France, while the AFEP and the MEDEF consult a number of stakeholders (the AMF, investors, etc.), they do not publish the initial proposal but wait until the final proposal has been approved”².

a. Stakeholder participation

LGIM believes greater balance around the parties involved in the drafting of the code can be achieved which will raise both the code’s legitimacy and effectiveness in promoting strong governance standards in France. **Therefore, we recommend that all key material stakeholders are equally involved in the process of building and revising the French Corporate Governance Code, and their views are fully integrated.**

Stakeholders (including international investors) play a crucial role in strengthening corporate governance standards. Their views on financial markets should be used to ensure the corporate governance system remains aligned with the corporate landscape and capture the evolution of best practice globally. Furthermore, by creating the right conditions and incentives through a strong corporate governance framework, the region will become increasingly attractive for long term capital investment.

¹ http://www.amf-france.org/technique/multimedia?docId=workspace://SpacesStore/26ebf299-2c93-497d-bbf4-b4b3c0317047_en_1.0_rendition, page 14

² http://www.amf-france.org/technique/multimedia?docId=workspace://SpacesStore/26ebf299-2c93-497d-bbf4-b4b3c0317047_en_1.0_rendition, page 16

b. Independent Oversight

From an external perspective, there are concerns around potential conflicts from the development of the recommendations in the code given that the process is currently owned by the parties who are meant to abide by them. Furthermore, the lack of transparency around the process of drafting the code reinforces the issues around legitimacy and accountability of the code. As a long-term investor, we believe a healthy tension between stakeholders and issuers is important in any corporate governance system and this needs to be recognised.

Therefore, LGIM requests that the process of the development of the code is led by an independent and neutral body which should oversee the process or an independent committee constituted of various stakeholders represented equally.

We would like to bring your attention the case of Germany where an independent committee is appointed by the Ministry of Justice. This independent committee is composed of 14 members including issuer representatives, investors, academics and unions³.

2) Consider a reinforcement of the normative force of the code

LGIM acknowledges the systems of control on the implementation of the French code currently in place. We note the essential and complementary roles played by the AMF and the High Committee for Corporate Governance (HCGE), a self-regulation body, in the monitoring of the implementation of the code.

Nevertheless, the 2016 comparative study of the AMF points out the singularity of the French approach to the implementation of the code and the use of “*comply or explain*” compared to other European countries. Implementation of the code is indeed voluntary in France and the French Commercial Code⁴ allows companies to give a general explanation on their decision not to refer to the code without requiring companies to explain why they are not complying recommendation by recommendation.

LGIM therefore encourages that an independent review on the normative force of the French code is undertaken, to examine whether legal or market rules should mandate its implementation. Issuers would remain free not to comply with the recommendations of the code but bound to explain every deviation from them.

We believe a shift from a voluntary to a mandatory approach would contribute to strengthening the code whilst preserving the distinction between soft and hard law⁵, which remains a fundamental characteristic of the French Corporate Governance Code. In addition, this shift would also enhance its importance and recognition globally amongst all market participants. As result, this should ultimately contribute to uphold market integrity, international competitiveness and long term sustainable returns.

³ <http://www.dcgk.de/en/kommission-33/members.html>

⁴ Articles L. 225-37 and L. 225-68

⁵ By reference to the distinction made by the Conseil d'Etat in its 2013 report on soft law

(<http://www.ladocumentationfrancaise.fr/doi/pdf/144000280.pdf>)

APPENDIX 2

LGIM generally welcomes the changes to the French Corporate Governance Code but believes it can go further to enhance the protection of minority shareholders and incorporate good practice.

Below we would like to outline five key points for further consideration:

1) Direct board-investor dialogue

We welcome recommendation 4.2 in the Code that highlights the role of the board Chair and Lead Independent Director (LID) being entrusted with the duty of engaging with shareholders on corporate governance matters. However, we believe this could be further strengthened.

LGIM considers a core feature of good governance and long term stewardship is the board's ability to engage with shareholders. As an investor assessing companies from the outside looking inwards, understanding the perception of directors is very important to better comprehend the company's performance and long term strategy.

In addition, **we believe that engagement and dialogue between investors and companies is a two-way process.** For example, from a company's perspective, LGIM believes that engagement constitutes a vital risk mitigation tool for the board. Directors should aim to use these meetings as a way to address investor concerns before they become problems. Alternatively, from an investor perspective, the opportunity to discuss the company's performance, strategy and governance structure is an essential part of building an investment case. This is because added transparency is provided around the board's decision making process and this information can only be obtained through direct engagement.

LGIM has published a thought piece on board-investor dialogue⁶ which provides more information on what we believe is the benefit of direct engagement for both parties. Therefore, **we recommend that appropriate guidelines are put in place to increase direct meetings between board directors and investors and enhance long term stewardship.**

2) Two-tier voting regime and separate disclosure of non-controlling shareholders' votes on independent director appointments

LGIM supports the implementation of a two-tier voting regime for the election of independent non-executive directors at controlled companies. As a UK based asset manager we have had extensive experience of the UK regime for the election of independent non-executive directors at controlled companies. Since the introduction of the listing rules in May 2014, we believe it has contributed in promoting increased transparency and improved communication and engagement between the board and minority investors in relation to board appointments.

We believe that the French market would benefit from such a mechanism. A two-tier voting process will ensure an appropriate balance of power among controlling and non-controlling shareholders when electing independent non-executive directors. Therefore we strongly support this mechanism applied broadly at all controlled companies.

⁶ <http://www.lgim.com/files/document-library/capabilities/lgim-guide-to-board-investor-dialogue.pdf>

This mechanism would also ensure explicit accountability of the independent non-executive directors to both controlling and minority shareholders. This would provide minority shareholders with greater assurance of the role that the independent non-executive directors can play on the board.

Furthermore, as explained above, we have seen improved greater communication and engagement between controlled company boards and minority shareholders. This is helpful in promoting good stewardship between all stakeholders and would promote the French market in this area.

Finally the additional transparency at the time of the vote will provide clarity of whether there was a clear mismatch between the vote cast by controlling shareholders and that of minority investors on the appointment of independent non-executive directors.

We expect an independent non-executive director who does not receive the majority support from the minority shareholders or the controlling shareholder to step down from their position on the board. Additionally, **we expect the controlling shareholder, the board of directors and minority shareholders to work together to develop a board structure in the interests of all shareholders.**

3) Raising the profile of the Lead Independent Director (LID)

To counteract the balance of power in the boardroom where a combined Chair and CEO exists, we acknowledge the recommendation in the code to appoint a Lead Independent Director on the board. The role of the LID facilitates the communication of independent directors as a whole and also acts as an important conduit for shareholders to discuss any relevant issues where the board Chair may be conflicted.

We propose that the profile of the LID position is raised further and explicitly promoted within the Corporate Governance code, by setting out key guidelines and expectations of what the role entails.

LGIM has published its views on the role of a LID and how it can benefit companies.⁷ This should provide some guidance of why investors highly value this position in the boardroom.

4) Director Term Limit

Board refreshment and director succession planning are key board tasks and the foundations of a well-functioning board. A board should remain relevant and diverse in terms of perspective, experience and skill sets. This ensures that the board can respond to risks and opportunities in order to sustain profit growth, maximise long term returns and guide the company successfully into the future.

In order to ensure the successful composition and functioning of the board, LGIM believes that candidates should submit themselves for re- election at regular intervals, subject to continued satisfactory performance. Regular elections can assist the board in maintaining the high quality of its members and the effectiveness of the board as a whole. Currently, the code states that normal practice should occur at least every four years. We believe this is slightly too long and **would**

⁷ <http://www.lgim.com/files/document-library/capabilities/the-role-of-the-senior-independent-director.pdf>

welcome guidance in the code for this to be reduced to three years. This is in line with best practice.

5) Board and Committee independence

a. Board independence in controlled companies

LGIM believes that the role of independent directors is essential to ensure the protection of minority shareholder interests. In controlled companies, this is even more important where the interests of controlling shareholders may conflict with those of the minority leading to a risk that minority shareholders are not heard or protected.

The role of the independent director is to commit to serve all shareholders equally with due diligence and integrity.

Currently, the code states that independent directors should account for at least a third of board members for controlled companies. **We recommend that this is increased to more than half in order to ensure the protection of minority shareholder interests.**

b. Committee independence

LGIM acknowledges that boards assign and delegate specific tasks to committees to help them fulfil their diverse range of responsibilities. The audit committee is responsible for monitoring the integrity of the financial statements of the company, appointing external auditors and ensuring sound and robust internal controls are in place to appropriately manage the company's financial, operational and reputational risks. Furthermore, the remuneration committee is responsible for the setting and operating of the company's remuneration strategy for executive directors and senior executives.

For the audit and remuneration committees, the presence of independent directors is essential to ensure appropriate monitoring and scrutiny over processes. Therefore, LGIM expects all companies to have an audit and remuneration committee comprised entirely of independent non-executive directors. We believe non-independent directors may be allowed to attend committee meetings but only by invitation.