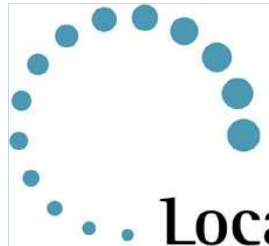


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Resolution for an Independent Chair at Marks and Spencer

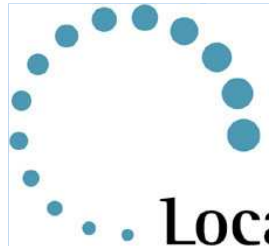
Councillor Ian Greenwood, LAPFF Chair



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Presentation outline

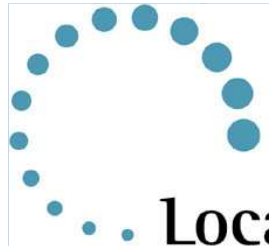
- About LAPFF
- The current situation - M&S announcements and current situation
- Combined roles – issues and examples
- LAPFF's engagement with the company
- The resolution itself



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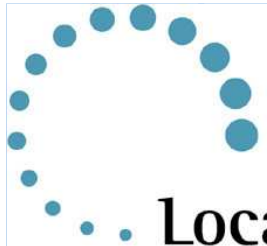
About LAPFF

- Formed in 1990 to: “promote the investment interests of local authority pension funds, and to maximise their influence as shareholders whilst promoting corporate social responsibility and high standards of corporate governance amongst the companies in which they invest.”
- Current membership stands at 49 funds, representing half all LGPS funds, and over two thirds of total assets
- Current chair Ian Greenwood appointed in January 2008



M&S announcements March and April 2008

- In March 2008 the company announced that Lord Burns would stand down as Chairman, with effect from 1 June 2008, with Sir Stuart Rose appointed Executive Chairman from the same date.
- In a follow-up communication to shareholders – sent after the decision had been taken and announced - it was argued that the combination of roles was part of its succession planning strategy:
- “It was felt important to be able to create an environment in which internal candidates could develop over a defined period of time. The proposed board structure was made in the context of a simultaneous and rigorous assessment of the senior management team.”



Current situation

- Sir Stuart Rose likely to remain Executive Chairman for two more years if the situation is not addressed.
- Already two of the small number of potential internal candidates to replace him – Carl Leaver and Steven Esom - have left the company, suggesting that the succession process is not working effectively.
- In addition to LAPFF, we are aware that other investors have been engaging with the company because of concerns about the governance arrangements in place. Some have expressed concerns that the succession process is in difficulty – yet this is supposedly why the roles need to be combined.

5 Year Share Price Analysis (comparator FTSE100)

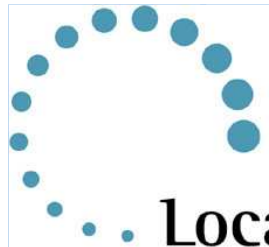
Source Reuters



5 year share price analysis (comparator Next)

Source Reuters

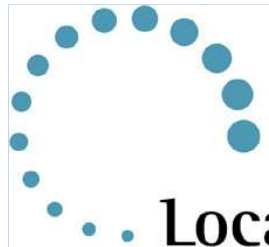




Separation of Roles

- The separation of roles is a fundamental principle in UK corporate governance and the Combined Code guidance is unambiguous:
- “No-one individual should have unfettered powers of decision... The roles of chairman and chief executive should not be exercised by the same person.”
- The FRC has carried out numerous reviews of the Code and there has apparently been no pressure from companies to amend this guidance, even when there is a need to address succession planning. Indeed Marks & Spencer’s own response to the most recent Code review (carried out in summer 2007) made no reference to this as an issue and suggested that “really effective boards” need to have a “Strong Chairman”*.

* See <http://www.frc.org.uk/corporate/2007reviewresponses.cfm>



In good company?

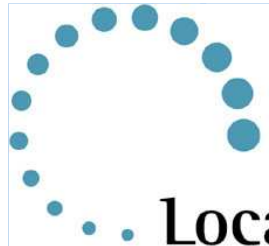
- Other notable UK-listed companies with combined roles –

Antofagasta: South American Mining company

Carnival: North American Cruise company

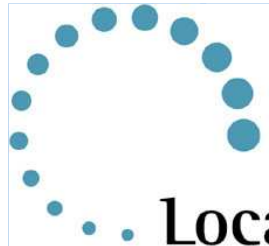
Inmarsat: North American Telecommunications

- No UK retailer has combined the roles of chairman and chief executive. The last to do so was WM Morrison.
- In total only 16 companies in the entire All-Share have combined roles



Industry guidelines

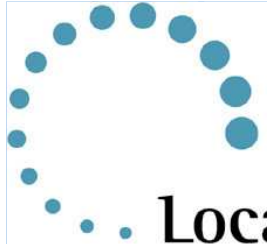
- Many investors' voting policies make explicit reference to their opposition to the combination of roles. For example -
- **NAPF Corporate Governance Policy and Voting Guidelines (2009)**
- **“A.2.4 Combined Chairman/CEO –** Investors remain convinced that separation of these roles is important. While they may be willing to accept non-compliance for a short time it will only be where there is an explicit statement setting out the reasons for combining the roles and a clear timetable for separation.”



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Risk not Rose

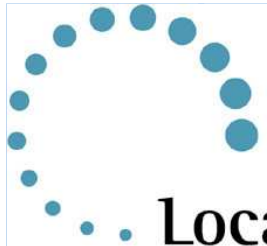
- LAPFF continues to support Sir Stuart Rose as chief executive, and will recommend its members vote FOR his re-election at the AGM. However, whilst LAPFF continues to support the chief executive, it does not accept that this need be at the expense of an independent chair.
- The Forum remains concerned at the current governance arrangements, and does not accept that these are necessary for the company's succession-planning.
- In addition the LAPFF believes that there is a need to combat the impression that governance considerations are less important at times of financial instability. In contrast the Forum believes that it is precisely at this point that it is most important to uphold high governance standards.



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History of Engagement

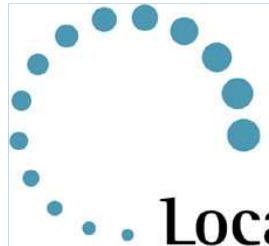
- March 08, M&S announce that Sir Stuart Rose will be appointed Executive Chair & Chief Executive
- The Forum felt that the company's explanation for why the roles were combined was not convincing. LAPFF continues to query why such a structure is necessary in order to succession plan when other companies do not require this. In addition the company made it explicit that this would not be a short-term arrangement.
- May 08 - LAPFF engaged directly with the chair, SID and co secretary
- Though the discussion was constructive, it was felt that the unspoken message was that Stuart Rose wanted this arrangement and the board did not feel it was prudent to resist.



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History of Engagement

- May 08 – Following the meeting with board members, the Forum communicated its ongoing concern at the company's governance, but stressed its continuing support for Sir Stuart.
- The Forum sought to file a resolution at the company's '08 AGM. However, as the company insisted that LAPFF pay six figure printing and distribution costs this was not practical.
- Despite the company frustrating the attempt to file a resolution, LAPFF honoured its pledge to the board to support Sir Stuart, and recommended its members vote FOR his re-election
- However the Forum told the company that if the issue was not resolved it planned to file a resolution at the 2009 AGM

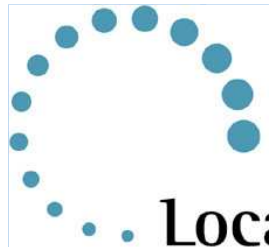


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History of Engagement 2008 AGM

- Sir Stuart was re-elected to the board, but there was a substantial number of abstentions. Overall approximately 22% of votes were not cast in support.
- Mainstream institutions such as BGI, Co-operative Insurance, Legal & General, Fidelity, and Henderson abstained on the election resolution*.
- It was clear that some investors were opposed to the governance structure, but did not want to oppose Sir Stuart. For example, some voted against the report and accounts as a protest.
- This confirmed the Forum's view that a resolution aimed solely at the governance issue would provide a 'safety valve' - allowing shareholders to express their concerns without opposing the chief executive himself.

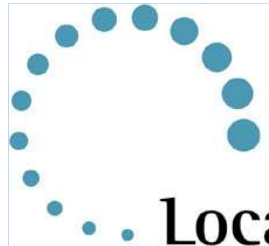
* Information taken from managers' public voting disclosures.



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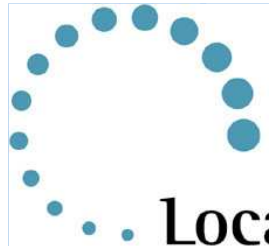
History of Engagement

- Autumn/Winter 08 – LAPFF continues to monitor developments at the company, and liaise with other concerned investors
- February 09 – In order to continue high-level engagement with the company a further meeting was held with David Michels. Again the tone of the meeting was positive, but it was clear that there would be no progress on the governance issue
- March 09 – having discussed the engagement process to date, LAPFF members formally decide to file a resolution seeking a separate chair
- The Forum informed the board that it would again support Sir Stuart, but would be filing a resolution to address the combined roles.



The resolution itself

- It is a special resolution, therefore it requires 75% support to pass. However the Forum believes that if it attracts significant support below this level then the board should respond positively.
- It is focused purely on the governance issue, asking the board to disclose a succession strategy and take all reasonable and practical steps to appoint an independent chairman by July 2010.
- The resolution is intended to provide an outlet for investors wanting to support good governance without voting against Sir Stuart himself.
- LAPFF will recommend its members vote FOR Sir Stuart's re-election and FOR the resolution

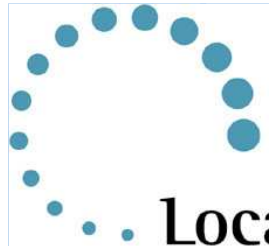


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Support for the resolution – voting advisers

- In the UK -
 - RREV has recommended clients vote FOR the resolution
 - PIRC has recommended a vote FOR
 - ABI's IVIS service has amber-topped its report on M&S

- In the US -
 - Glass Lewis has recommended a vote FOR
 - Marco Consulting has voted FOR



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In the company's own words

- As M&S said itself in its response to the FRC's 2007 review of the Combined Code: "The key to ensuring improved Board performance over time is that the Chairman and Board members see the true value from investing time in this key area."
- M&S also highlighted that a "really effective board" needs a "Strong Chairman" and a "Good relationship between Chairman and CEO".
- The Forum agrees, which is why we urge the company, and its investors, to recognise the need to revert to normal operating practices as soon as is practical by appointing an independent chair by July 2010.
- Please vote FOR the resolution.