

**CFA Society of the UK** (the society or CFA UK)

**Summary of Proposed Amendments to the Articles of Association** (the articles)

**Annual General Meeting 2020**

**INTRODUCTION**

The society's board is committed to applying high standards of corporate governance.

This note describes changes which the board proposes should be adopted by members at the forthcoming annual general meeting to:

- improve the society's democratic arrangements by introducing a process for members to propose additional resolutions at future AGMs and enabling members to attend future AGMs remotely,
- enhance the society's board and committee arrangements through a number of changes to board composition and board and chair appointment and term provisions, extension of the nominating committee responsibilities to include succession planning and removal of the prescriptive requirement to have a management committee so that more flexible and appropriate delegation arrangements can be introduced.

Following a governance review undertaken during the last year with the support of external advisers, a number of changes to governance arrangements are now recommended by the board. The aim of these changes is to enhance the democratic rights of the society's members as well as the effectiveness of the board's oversight and leadership of the society's activities for the benefit of all members.

Some of the proposals require amendments to be made to the society's articles (last changed in 2012) before they can be introduced. Changes to the articles require approval by the society's members, with a 75% majority of those voting on them needed for them to be adopted.

As well as seeking independent advice, the board has undertaken a member consultation on these proposals. The consultation comprised a survey sent to all members as well as two virtual 'townhall' meetings to which all members were invited. The board is satisfied that, whilst not all respondents were supportive of all elements of the proposals, the proposals were broadly supported by the small number of members who participated and that, in order to ascertain the wishes of all members, the best way forward is to propose the changes in full to the membership at this year's annual general meeting.

**SUMMARY**

The board's members are conscious that their collective authority and powers are derived from the members to whom they are accountable. This agency relationship, which is central to UK corporate governance, is optimised when both the rights of members and the restrictions within which the board operates are carefully thought out and balanced - for effective management, there needs to be sufficient operational flexibility but without compromising the proper degree of transparency, oversight and accountability which members are entitled to expect.

Therefore, in carrying out the review, the board was pleased to give its unequivocal support to some ways in which the democratic rights of society members could be enhanced within the articles:

- introducing a right of members to requisition a resolution to be put forward at the society's next annual general meeting and to require the board to also circulate to all members an explanatory statement in support of the proposed resolution,
- enabling future general meetings to be held remotely so that members do not need to be available to attend our annual meeting in person in order to participate.

The board also recognised that, some of the requirements within the current articles which govern how the board and its committees are composed and operate, are unnecessarily prescriptive and, in lacking flexibility, can act as

a barrier to the board's ambition to continually evolve and improve its governance practices. The board has therefore identified other changes which it believes will be beneficial to the board's effectiveness, including:

- reducing the maximum size of the board over time from 14 members (which is larger than is considered best practice) to ten,
- striking a better balance between achieving continuity on the board and the role of the chair and ensuring the board is still regularly refreshed,
- enhancing the nominating committee's role in officer and board succession planning,
- making the board committee structure more flexible.

The full proposals are described in more detail in the following sections. The board seeks approval for the adoption of the new articles of association containing these changes at the forthcoming annual general meeting.

## **ENHANCING THE SOCIETY'S DEMOCRACY**

### **Rights of members to requisition general meeting resolutions and related matters**

The Companies Act 2006 ensures that members of the society already have certain statutory rights, for example to require the directors to convene a general meeting, and the existing articles also include relevant provisions, for example enabling 100 regular members to propose a resolution for the election of a new director.

As part of its review, the board identified that it could further enhance members' democratic rights by making it easier for members to require an additional item to be included in an annual general meeting notice. Through the proposed changes, members will have the right to require a resolution to be included in the notice of the next annual general meeting. Provided such a request sets out the resolution properly and the resolution is not considered to be ineffective, defamatory, frivolous or vexatious, the request:

- will need the support of 100 members (less than 1% of current membership),
- will need to be received by the society at least six weeks before the annual general meeting in order to accommodate mailing timescales,
- can be accompanied by an explanatory statement in support of the resolution which the board would then also arrange to be circulated to members with the relevant AGM materials.

If the new proposals are adopted, the society will publish a clear process for any members who wish to be able to use these new rights.

### **Members' right to receipt of notice of general meetings**

All voting members have the right to receive notice of the annual general meeting or any other general meetings called from time to time. For administrative reasons, it would be convenient for the board to be able to set a date, a few days prior to the date on which the notice is issued, to determine entitlement to receipt of notice. It is therefore proposed to add a new article to empower the board to set such a date, provided that the date selected is not more than 21 days prior to the date on which the notice of meeting will be sent. In practice it is likely that the period between the date chosen and the date when the notice is issued will be much less than this maximum. In any case, in order to encourage member engagement, the society publishes its AGM notice on its website and also issues, in the lead up to the meeting, regular voting reminders to all voting members, with access to the meeting notice also provided on the voting website.

### **Attendance at general meetings**

The society's current articles do not permit members to attend, speak and vote at a general meeting remotely. The recent lockdown and COVID-19 restrictions on gatherings highlighted that the ability to offer remote attendance to members could be useful to the smooth running of the society and potentially convenient to members, particularly those not based in London. The proposals include introduction of provisions to enable remote attendance and participation by members at society general meetings. These changes are not intended to replace the holding of

a physical meeting in ordinary circumstances, but to provide additional options for the board to offer convenient ways for members to attend.

## **CHANGES TO ENHANCE THE BOARD'S EFFECTIVENESS**

### **Board appointments and term**

At present, the board size is fixed by the articles at 14 directors. Whilst this enables the board to draw upon members with a wide range of skills, qualifications and experience, a board of this size is considered larger than ideal (see, for example, research cited in the 2009 final report of the [Walker Review](#) or the Charities Governance Code which recommends a board size of between five and twelve people). It is therefore proposed to introduce a phased reduction in the maximum size of the board to ten directors by the end of 2023, whilst ensuring that the board can never be represented by less than seven directors.

Although under the current articles of association an eight year term may be served by board members in some circumstances and with the recommendation of the nominating committee, board members normally serve a maximum term of six years. This is divided into three terms of two years each, with all directors standing for re-election every second year. There is no proposal to alter six years as the normal maximum term but, to increase the available pool of board members available to serve on the nominating committee each year (directors due to stand for re-election are naturally precluded from serving on the committee which will recommend their eligibility to stand), it is recommended as part of these proposals that directors, in future, serve three years each before standing for re-election.

It is also proposed that, rather than serving a maximum two year term as chair as is currently normally the case, the chair should be able to hold that office for up to three years in order to facilitate greater continuity in this important role.

It is possible that this may sometimes result in a chair needing to serve more than the normal six year term as a director. Therefore, it is proposed that the nominating committee should be able to recommend an extension of the term of the chair in order to enable them to serve in that office for up to three years, or an extension of term beyond the normal six years for other directors in any circumstance, where the committee believes that such an extension is strongly in the interests of the society. No extension of term beyond eight years is currently possible and there are no proposals to change this upper limit.

### **Nominating Committee**

The nominating committee's primary role is to consider, and make recommendations to the board, on the appointment or re-election of board members. There are no proposals to alter this core function of the nominating committee. However, it is proposed that the committee should be given additional responsibilities for succession planning for the board's officers in order to ensure the process, which is currently managed by the board as a whole, is made more transparent and objective.

The society's nominating committee currently comprises the immediate past chair, three current board members who are not standing for re-election that year and who are also not officers of the society, and one independent member drawn from amongst distinguished members of the profession. To reflect the anticipated reduction in board size referred to above, it is proposed that the committee membership requirement should be reduced to at least two, rather than three, current board members and that officers should not be prohibited from being members. However, it is anticipated that officers will only serve on the nominating committee if there are not a sufficient number of other board members available to do so.

Because some members of the nominating committee are also members of the board, there is a risk that, without appropriate measures, conflicts of interest and other problems could arise if, for example, the nominating committee was considering recommending appointment of one of its members as an officer or a member of the committee, who was also an officer, was contributing to discussions about their own successor. In order to avoid such situations, the proposed changes clarify that, in those types of scenario, the relevant committee member

would recuse themselves from the discussions. If recusing themselves would render the committee inquorate, the board would have the option to appoint a special purpose committee to consider the relevant decisions in place of the nominating committee.

### **Removal of the requirement to appoint a management committee**

The existing articles require the board to appoint a management committee which is responsible for management of the society between board meetings. The articles also prescribe who the members of this committee should be.

The articles already empower the board to appoint committees and to delegate functions to them. The prescriptive nature of the management committee provisions in the current articles have proved to be a barrier to change and to enhancing the way in which the board operates and delegates responsibilities within the organisation. Removal of the relevant provision will give the board greater flexibility to determine how best to delegate matters which it does not reserve to itself. The board intends, if the new articles without these provisions are adopted, to create a new chief executive's forum which will, amongst other things, improve information sharing between the board and the society's committees. This change will, if approved, further facilitate the distinction between strategic matters, which are the preserve of the board, and operational matters.

### **General**

A number of other minor or consequential changes are also proposed, including changing all references to 'chairman' to 'chair', removing other gender-specific terms (he, his etc), a change to the circumstances in which a director can be removed to reflect the requirements of The Mental Health (Discrimination) Act 2013 and updating the headings and numbering of articles as necessary.

### **NEXT STEPS**

The board seeks approval for the adoption of the new articles of association containing these changes at the forthcoming annual general meeting.

The board is proposing that a new set of articles of association be adopted rather than proposing separate resolutions for individual amendments to the current articles. To enable members to identify the changes and assess the proposals in full, both clean and black-lined copies of the Articles have been made available on the society's website and can be accessed [here](#).

Members are asked to exercise their right to vote on these changes at the forthcoming annual general meeting. Due to the current restrictions on gatherings, the AGM will be held remotely with all votes cast in advance by proxy via our online voting system. Please refer to the notice of annual general meeting for further notes about the arrangements for the meeting and how to vote.

**Daniel Murray**  
**Chair**  
**CFA Society of the UK**