

6. Clawback

Following the decision of the Committee to adopt clawback provisions to facilitate compliance with the revised UK Corporate Governance Code, in addition to the existing malus provision on LEAP and Deferred Bonus, management was asked to make a proposal regarding the way clawback should operate and the extent, if any, to which it should relate to those other than executive directors.

Proposal

1. Scope

It is proposed that clawback will relate to executive directors only, which is in line with the Code. It was felt that having considered a wider population, the addition of clawback would be likely to have two significant impacts on the business. Firstly, a more conservative trading practice around contracts which would have a detrimental impact on performance. Secondly, our performance in terms of reward, including variable pay, is effectively below median. The addition of clawback for those other than executive directors is effectively upper quartile practice. The combination of these two elements would be likely to produce a negative response across the business.

2. Implementation

Clawback will operate for two years from the vesting date of any award made on or after 1 February 2015 (i.e. LEAP 2015 and bonus 2015 onwards). It will relate to relevant events after 1 February 2015. The events that might trigger a clawback (see below) must occur either in the relevant performance period (for LEAP) or the bonus year.

It will relate to:

- Events of gross misconduct (a well-defined and accepted legal term) by the executive concerned, or
- Material misstatement of the company's published accounts for the years (saving any restatement required by a change to the Accounting Standards, accounting policies and accounting practices of the business) which relate to the performance period of the award which lead to a restatement of those accounts.

The extent to which clawback applies is at the discretion of the Committee (acting reasonably) to a maximum of the net amount of the award, together (where applicable) with any recovery of tax and national insurance successfully claimed and paid by HMRC to the executive. Where the clawback relates to a material misstatement of the accounts for any year in the performance period, there is provision for executives to request information regarding the misstatement and be given the opportunity to provide clarification before clawback is applied.

3. Application to benefit plans

The bonus plan has a one year performance period with half of any bonus earned being paid immediately and the balance converted to shares and deferred for three years.

The cash element of the bonus will be covered by the two year clawback.

The deferred bonus will be covered by malus during the deferment period as at present although the definition in the rules will be amended for awards after 1 February 2015 to align to the clawback definition for consistency.

The LEAP has a three year performance period and any award is made in the form of nil cost options which can currently be exercised immediately or left unexercised for a period of up to ten years. There is currently no extended holding requirement.

For the LEAP, it is proposed that a two year holding period is added by including it in the Remuneration Policy. During the holding period malus will apply since the benefits remain in the possession of the Company. At the end of the holding period the executive may exercise the option or leave it unexercised as noted above. As the options are nil cost, there is no tax point at the end of the performance period or at the end of the holding period unless the options are exercised. It is recommended that the Committee considers paying dividend equivalents to the executives during the holding period (as allowed by policy and the scheme rules). This approach would meet the requirements of those institutional investors who will not approve the remuneration report of companies where longer holding periods don't apply and would greatly simplify any application of clawback in the unlikely circumstances that it should apply.

Suitable provision will be made in the rules of the LEAP for early leavers where it should be noted that while the two year holding period will not be applied, clawback will still apply from the date of vesting.

In formulating these proposals management has taken advice from Deloitte and Slaughter and May.

The Committee is asked to approve the proposals.