

Invitation to Tender (ITT):

The impact of proxy voting advisors and ESG rating agencies on actions and reporting by FTSE 350 companies

Provision of Research Services

Reference	FRC2022-0141 Research Services - Proxy voting advisors and ESG rating agencies
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1 Background and context

The Financial Reporting Council (FRC) regulates auditors, accountants and actuaries and sets the UK's Corporate Governance and Stewardship Codes. We seek to promote transparency and integrity in business; our work is aimed at investors and others who rely on company accounts, audit, and high-quality risk management.

Each year the FRC assesses a sample of FTSE 350 annual reports to examine the quality of reporting against the UK Corporate Governance Code. An important element of the assessment is the extent to which companies comply with the provisions of the Corporate Governance Code, and where they do not, the quality of their explanations.

The 'comply or explain' nature of the Corporate Governance Code allows companies to adjust their approach to governance as appropriate for their business model and individual circumstances. Therefore, in some cases, non-compliance or partial compliance with the Corporate Governance Code is the right approach for a company.

Following the FRC's report – [Improving the quality of 'comply or explain' reporting](#), we have observed more companies explaining non-compliance with one or more Provisions of the Corporate Governance Code in their governance reporting. The FRC welcomes this approach if it is supported by a comprehensive explanation. Our goal is transparent reporting by companies, demonstrating good corporate governance.

The FRC is also responsible for the UK Stewardship Code which sets out the Principles of good investment stewardship. Investors are asked to disclose which third parties they use to support their stewardship activities, the services provided and how they are monitored and held to account. In particular, the Stewardship Code requires signatories to state the extent to which they use the default recommendations of proxy advisors.

Proxy voting advisors and Environmental, Social and Governance (ESG) ratings agencies provide institutional investors with research, data, and ratings, as well as voting recommendations for companies' annual general meetings (and other special meetings). Proxy advisors are eligible to themselves become signatories to the Stewardship Code by reporting on how they support their clients' integration of stewardship and investment. This includes reporting on material environmental, social and governance issues, and communicating what activities they have undertaken.

The aim of this research project is to examine how investors' stewardship and behaviour is affected by those recommendations and ratings. This includes understanding where, and in what circumstances, engagement takes place among companies, investors, and proxy advisors/ESG ratings agencies.

It is thought, for example, that some companies are finding it difficult to use the Code's flexibility and explain non-compliance effectively, even when this is justified by their circumstances. It is claimed the difficulty arises because proxy advisors believe such situations *automatically* reflect poor governance, and do not consider explanations of non-compliance appropriately. This inevitably leads to negative voting recommendations. It is also claimed that, in some cases, companies have been unable to engage with a proxy advisor to discuss

the issue and demonstrate how their approach represents good governance for their specific circumstances.

Proxy advisors, in turn, explain how their assessments are made on a case-by-case basis, taking into account the views of their clients. Proxy advisors also explain that they are open to engagement with companies to discuss the specific circumstances and proposals of the companies, yet such dialogues are reportedly often limited and not fruitful.

Many investors make use of the services of proxy advisors and ESG ratings agencies, although they differ in the way they use the information provided. It may be the case that some investors rely excessively on external recommendations and are not sufficiently analysing or questioning the research, data, and ratings/recommendations they receive. In doing this they may be compounding the challenges described above.

2 Project description

2.1 Purpose & Objectives

The objective of this research project is to answer the following questions:

- A) What are the impacts of recommendations/ratings given by proxy voting/ESG ratings agencies on FTSE350 companies' behaviour and reporting, and investor voting decisions? This should include the impact on governance policies and practices, and on so-called "tick box" behaviour.
- B) What have been the processes and outcomes of engagement over the last two years among FTSE 350 companies, investors, and proxy voting/ESG ratings agencies? We are interested in three types of bilateral engagement:
 - i. Between FTSE 350 companies and proxy voting/ESG ratings agencies on recommendations/ratings given by the latter
 - ii. Between investors and proxy voting/ESG ratings agencies on recommendations/ratings given by the latter
 - iii. Between investors and FTSE 350 companies on recommendations/ratings given by proxy voting/ESG ratings agencies.

In answering this question, we would also like the appointed research team to quantify the frequency of such engagements over the last two years.

- C) What are the barriers to effective engagement between the parties as set out above?

The purpose of this research project is to inform future policy work by the FRC or other agencies. The output of the project may be included in a future FRC publication(s).

2.2 Scope

The population for this project falls into three categories: (1) FTSE 350 companies; (2) investors in those companies; (3) proxy voting and ESG ratings agencies that issue recommendations/ratings on those companies.

To identify and contact suitable participants from organisations in the above three categories it will be necessary to work with their representative organisations, as well as making individual contact. The FRC will be able to make *some* introductions to organisations representing company secretaries and legal counsel, as well as investor organisations, proxy advisors and ESG rating agencies. However, you should also provide details of your own participant recruitment and engagement approach and strategy in your proposal.

2.3 Suggested Approach

Desk Research

It is envisaged that answering the research questions in 2.1 above will require the appointed research team to carry out case studies, informed by interviews/correspondence (see below). However, we would also envisage desk research being used to provide supporting evidence that will inform the case studies. This could include quantifying the frequency of engagements over the past two years (part of research question B) as well as understanding the positions that investors and proxy advisors take in relation to the Corporate Governance Code and its reporting.

Stewardship reports will contribute to background information on voting practices, and a limited history of previous statements from proxy advisors are available. However, we recognise there is only limited publicly available information and therefore request that bidders explain in their proposals how their desk research would overcome this.

Roundtables

A series of roundtables, each comprising participants from *one* of the three actor categories detailed in 2.2 above, could serve as the means of initially identifying key engagement issues and themes. The roundtables would also assist with recruitment of participants for researching the case studies (see below)

Case studies

To inform our understanding of the complex relationships at play we would envisage the successful bidder carrying out a number of case studies, with each focusing either on one company or a series of engagement(s). Each case study would be based on interviews/correspondence with representatives from all three categories described in section 2.2. Taken together, the case studies would demonstrate where engagement has been effective, and conversely where it has not. This includes the identification of any barriers to engagement (for example lack of sufficient time, resources required) and examples of good practice.

The case studies would consider how the agencies' policies and ratings/voting recommendations impact on both companies' and investors' behaviours and reporting. We are interested both in evidence of such policies raising standards and in cases where they may be restrictive and stifle innovation. The UK Corporate Governance Code offers the flexibility for a company to adopt a different approach to one contained in the Code if they can satisfactorily explain why that approach is better in their specific circumstances; we are especially interested in any areas where this has been difficult to achieve.

The case studies would be supported by related public disclosures such as policy statements and voting policies, along with the insight gained from one-to-one interviews/correspondence.

The above approach is a suggestion only; bidders are invited to offer additional/alternative methods as they deem necessary to answer the project's research questions. Bidders should explain in their proposals how their combination of methods would do so effectively.

If using case studies as part of their approach, bidders should further specify how they would define and organise the case studies, and what mix of engagement approaches these would comprise (interviews, written correspondence, etc). Bidders should also specify how many case studies can be carried out within the project timeline and stated budget. Please also specify the additional cost that would be incurred for a larger number of case studies (e.g. in multiples of five), and/or other additional approaches that you believe would improve the project's outcomes.

2.4 Deliverables/outputs

This project will produce a final report for the FRC, parts (or all) of which may be published or used in future FRC publications¹. The final report should comprise:

- Presentation of the evidence gathered to answer the research questions posed in section 2.1 above, including a write-up of the case studies (if this is the approach to be used, or otherwise an equivalent as agreed with the FRC). The report will largely be qualitative in nature, but should also include supporting quantitative data, among which should be a table comparing the voting policies of advisors with the actual votes cast on the resolutions covered in the case studies.
- An analytical narrative of the project's overall findings in relation to the research questions, including recurring themes and good practice found.

2.5 Liaison arrangements

The FRC team should be consulted on key decisions in the research design and its implementation. This will include regular project progress updates via Microsoft Teams and email.

2.6 High-level project timeline

<i>Date</i>	<i>Deliverable / milestone</i>
August 2022	Contract start
August – September 2022	Desk research; engagement with investors, issuers and advisors (potentially via roundtables) to explain the project and identify potential case studies
October 2022 – January 2023	One to one interviews/discussions with relevant parties
Late November 2022	Interim findings presentation / discussion

¹ The successful bidder will be credited in any publication that uses the output from this project. However, this should not be read as a commitment by the FRC to publish.

January – March 2023	Analysis & Write-up
End February 2023	Draft Report review(s) by FRC
March 2023	Final Report, End of contract

2.7 Cost and financials

The tenderer should provide a fixed fee for the work, exclusive of VAT, inclusive of all expenses. Tenderers should detail their costs in the Tender Response Documents in the format specified. No other costs should be charged on top of the fixed fee, unless the scope materially changes from what is set out / agreed. Changes to the scope / cost of the project must be mutually agreed.

The FRC does not anticipate tender bids over £55,000 excl. VAT

2.8 Your tender response

The proposal should be no more than 7 pages in total, excluding annexes, and include:

- A succinct summary of the proposal, including an estimated timeline of project milestones.
- Details of the proposed approach. This should include details of your participant recruitment approach and strategy, data sources (e.g. for the desk research), as well as explaining your approach to the case studies and addressing the queries posed at the end of section 2.3.
- An estimated timeline of project milestones.
- Your team's experience of similar projects and relevant research capability, including its specific experience of corporate governance and investment stewardship related work.
- The arrangements to be put in place for managing this work and quality assuring outputs.
- A budget, including a breakdown of costs and time spent per activity, in line with the principal project objectives outlined above.
- CVs for the project team should be included in an annex, along with any additional information about your organization that you consider relevant.
- Bids should identify any real or perceived conflicts of interest.

2.9 Tender evaluation

Proposals will be assessed against the following principal criteria:

- (20%) Understanding of our requirement (supported by relevant experience, track record and / or transferrable knowledge).
- (35%) The suitability of the approach (including methodology and management).

- (25%) Experience / relevant experience of the proposed personnel.
- (20%) Pricing / cost of your proposal.

3 References

The FRC reserves the right to take up references. You will be required to provide references in the Tender Response Document. References must be relevant to the FRC requirement and in the last five years

4 Use of ITT & publication

Tenderers **must not** undertake any publicity activity regarding the procurement within any section of the media.

5 Questions & Clarifications

Tenderers may raise questions or seek clarification regarding any aspect of this tender at any time prior to the tender clarification deadline.

Tenderers may raise questions or seek clarification within the timeframe by sending questions to procurement@frc.org.uk in the following format.

Nature of query / clarification	Query / Clarification

The FRC will not enter into exclusive discussions regarding the requirements of this ITT with tenderers.

To ensure that all tenderers have equal access to information regarding this tender opportunity, FRC will publish all its responses to questions raised by Tenderers on an anonymous basis.

Responses will be published in a questions and answers document to all Tenderers who have indicated that they wish to participate.

6 Tender process timeline

DATE/TIME	ACTIVITY
22/06/2022	Publication of the Invitation to Tender
29/06/2022 by 5pm	Deadline to submit clarification questions
04/07/2022 by 5pm	Deadline for publication of responses to clarification questions

	The FRC will endeavour to meet this deadline
20/07/2022 by 5pm	Deadline for supplier submission of tender to the FRC.
w/c 01/08/2022	Tender Outcome
w/c 08/08/2022	Contract Start
17/03/2023	Contract End

7 Conduct

The tenderer must not communicate to any person the tender price, even approximately, before the date of the contract award other than to obtain, in strict confidence, a price for insurance required to submit the tender.

The tenderer must not try to obtain any information about any other person's tender or proposed tender before the date of the contract award.

The tenderer must not make any arrangements with any other person about whether or not they should tender, or about their tender price.

The tenderer must not offer any incentive to any member of FRC's staff for doing or refraining from doing any act in relation to the tender.

If the tenderer engages in any of the activities set out in this section or if the FRC considers the tenderer's behaviour is in any way unethical, the FRC reserves the right to disqualify the tenderer from the procurement.

The tenderer represents and warrants that a conflicts of interest check has been carried out, and that check revealed no conflicts of interest.

Where a conflict of interest exists or arises or may exist or arise during the procurement process or following contract award the tenderer must inform the FRC and submit proposals to avoid such conflicts.

Tenderers must obtain for themselves at their own responsibility and expense all information necessary for the preparation of tenders. The FRC is not liable for any costs incurred by the tenderer as a result of the tendering procedure. Any work undertaken by the tenderer prior to the award of contract is a matter solely for the tenderer's own commercial judgement.

8 Due Diligence

While reasonable care has been taken in preparing the information in this ITT and any supporting documents, the information within the documents does not purport to be exhaustive nor has it been independently verified.

Neither the FRC, nor its representatives, employees, agents or advisors:

- makes any representation or warranty, express or implied, as to the accuracy, reasonableness or completeness of the ITT and supporting documents; or
- accepts any responsibility for the adequacy, accuracy or completeness of the information contained in the ITT and supporting documents nor shall any of them be liable for any loss or damage, other than in respect of fraudulent misrepresentation, arising as a result of reliance on such information or any subsequent communication.

It is the tenderer's sole responsibility to undertake such investigations and take such advice, including professional advice, as it considers appropriate in order to make decisions regarding the content of its tenders and in order to verify any information provided to it during the procurement process and to query any ambiguity, whether actual or potential.

It is a requirement that the successful supplier (i) comply with all applicable laws and regulations including, without limitation, the Bribery Act 2010, the Equality Act 2010 and the Modern Slavery Act 2015; and (ii) in addition to any contractual requirement(s), inform the FRC immediately upon becoming aware of any event (including actual or threatened court proceedings) which may impact upon the reputation of the FRC, whether or not connected with the Supplies and/or Services.

9 Submitting a Tender

Tenderers must submit their tender response within the deadline to procurement@frc.org.uk.

Where a Tender Response Template is provided, potential providers must align their tender response with that format.

A Tender must remain valid and capable of acceptance by the Authority for a period of 90 days following the Tender Submission Deadline. A Tender with a shorter validity period may be rejected.

10 Evaluation

The FRC will award the contract on the basis of the tender which best meets the evaluation criteria aligned to the requirements.

11 Acceptance of Tender & Notification of Award

The FRC reserves the right to amend, add to or withdraw all or any part of this ITT at any time during the procurement.

The FRC shall not be under any obligation to accept the lowest price tender or any tender and reserves the right to accept such portion or portions as it may decide, unless the tenderer includes a formal statement to the contrary in the tender. The FRC also reserves the right to award more than one contract to fulfil the requirement.

The tenderer will be notified of the outcome of the tender submission at the earliest possible time.

Where the procurement process is subject to EU public procurement directives, a minimum standstill period of 10 calendar days will apply between communicating the award decision electronically to tenderers and awarding the contract.

Nothing in the documentation provided by the FRC to the tenderer during this procurement or any communication between the tenderer and the FRC or the FRC's representatives, employees, agents or advisors shall be taken as constituting an offer to contract or a contract. No tender will be deemed to have been formally accepted until the successful tenderer has received a formal contract award letter from the FRC.

12 Additional Information

Please use the attached Tender Response Document for your reply.

The Terms and Conditions that will apply to this proposed Agreement are attached. **Suppliers should accept the T&C's with no material changes.**