BANK OF GEORGIA

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Bank of Georgia — commentary on consultation paper

I am writing to you on behalf of the Board of Directors of Bank of Georgia PLC in response to the welcome invitation for consultation on the 24 May 2023 publication of proposed revisions to the 2018 UK Corporate Governance Code.

First we appreciate the opportunity to comment on what are important new proposals to strengthen the design, monitoring and operation of internal control and governance systems in companies.

Overall we support the aim of the proposals in providing additional guidance and obligations on Directors to improve the reliance and trust of external stakeholders on companies' systems, controls and reporting as well as overall corporate governance. We also welcome the attempt to provide some flexibility to the application of the proposals by applying the general principle of comply or explain.

However, we do have some questions and concerns, particularly those in relation to the risk management and internal controls section of the revisions. Specifically these are:

1. The requirement to establish and maintain an effective risk management and internal control framework is understood. In addition, providing transparency and clarity via the annual Director's Declaration is generally supported. The expansion of scope to include operational, compliance and internal control systems however, when combined with the necessity for us to move simultaneously to define the framework, consistently document the key controls, provide for continuous monitoring and evidence the controls exist and are operating effectively is a huge undertaking.
   The first point therefore is to question whether the increase in scope, beyond that for example US Sox employs is advisable at this time. These are difficult economic times for many companies, with the macro-economic situation, Ukraine war and post pandemic recovery weighing heavily, not to mention in the UK, the impact of Brexit. Thus making the burden on companies even greater than UK's major competitors in capital markets at this time could be argued to be counter-productive if the UK is to be seen as a competitive and attractive listing location.
   Secondly, while we believe that an effective system exists today at Bank of Georgia, as we know from others' experience of the implementation of the (more narrowly focused) US Sox programme, the work required to document and evidence this is hugely burdensome. Adding compliance and operational controls to the scope just increases the workload, particularly for first time implementors. In addition, assistance will be required to complete the exercise, and given the timelines involved (with additional guidance and clarifications still yet to be published), the ability to access that help, particularly for companies such as BoG with largely overseas and emerging market operations will be very challenging (PwC for example has refused to undertake more work for new clients in Georgia for "geo-political reasons" and with EY being our auditors, and Deloitte and KPMG having limited capability, will mean we fear that we will have little access to expert independent help.

The timetable for compliance therefore, in our opinion, needs to be re-considered. We would recommend that the initial deadline for the Director's Declaration of 1 January 2025 apply only to controls over financial reporting. The implementation of other areas could then be pushed back to say 1 January 2026, which would allow learnings and guidance to be applied from the exercise on financial reporting controls to be utilized and make the whole project both more effective, efficient and realistic.
If the desire is for everything to be done at the same time, I would urge that the deadline be extended to 1 January 2026 at the earliest to allow us sufficient time to access the appropriate resources and do the extensive work required.

2. The desire to afford flexibility to company Boards is laudable. However we believe that we need clearer guidance and definition of some aspects of the proposals. Without this, the Directors are left with a huge degree of ambiguity and lack of clarity on the expectations and standards to which they are to be held accountable. At worst this ambiguity will not lead to the transparency or trust that is sought as the basis for the proposals, as it will not be clear on what basis different companies have provided their declarations, how diligent they have been and how they have applied and interpreted the Code. In practice, those with a diligent culture like Bank of Georgia, will have a tendency to be over prudent and those with a less developed compliance culture will have a tendency to do the bare minimum. This will not achieve the desired outcome of transparency or improvement in overall governance that external stakeholders are looking for. The good will continue to be good, and those in need of improving will not do so to the extent needed. In addition, the ability of external stakeholders to rely on a common standard of compliance will simply not be there, if so much is left to individual Boards to determine, which then defeats much of the outcome that is being sought by these proposals.
   We would therefore like the promised additional guidance to include:
   i) the control framework to be used, eg COSO, which is recognized, understandable and well-understood, and is already used as a framework for other bodies, including US Sox
   ii)key definitions such as material weakness (hopefully in line with existing standards), including how materiality is to be applied to non-financial information
   iii) what is a "failure"

   The above clarity will also be needed, if external assurance is to be obtained. Without this, the individual providers of the assurance will be left to evaluate and decide on a case by case basis, the effectiveness of different frameworks, the application of those frameworks in practice and whether they support the declaration. We would argue therefore that by default, the assurance providers will push implementors to a common standard anyway, and therefore we see little downside to mandate this up-front and prevent ambiguity and lack of consistency from the beginning.

3. The requirement to continuously monitor is in our view unnecessarily onerous. The systems and controls clearly need to be designed to operate continuously, but the declaration can only be based on regular/periodic testing and assurance rather than on a continuous basis. We would also point out that one control incident that occurs at one point in time, should not mean that a conclusion has to be reached that the control systems are ineffective, if those incidents are remediated. Businesses operate in a dynamic and ever-changing environment and any system has to adapt and evolve. As long as the controls and process is in place to respond to those changes exists and there is no material adverse impact on the

financial/nonfinancial reporting at a point in time, we do not see why an ineffective conclusion should be reached as they have not been effective on a continuous basis.

4. Finally, we would like it to be made explicit that if the Directors choose to seek external assurance that those services are not to be treated as non-audit services and therefore contribute to the non-audit services cap. Finding a third provider (as our auditor cannot provide assurance, nor can the firm that assist in implementing the new proposals) will necessarily be at very high cost, if not at all practically possible, particularly in markets like Georgia with little to no competition. In addition, our auditor will have to perform work anyway on systems and controls and to have to seek an alternative provider at significant cost seems duplicative, overly punitive on Directors trying to do the right thing and ultimately a dis-incentive to seek that assurance.

We hope you find the above constructive and useful in evaluating and evolving the proposals. Again, we support much of what is being suggested, and generally applaud the work to improve the trust by external stakeholders in reporting and risk management in all legal entities.

Yours faithfully, [redacted]