

Unilever PLC  
Registered in London  
41424

Registered office  
Port Sunlight, Wirral,  
Merseyside CH 62 4ZD

Unilever PLC  
Unilever House  
100 Victoria Embankment  
London EC4Y 0DY

+44 (0)20 7822 5252  
unilever.com



Financial Reporting Council ("**FRC**")  
8th Floor  
125 London Wall  
London EC2Y 5AS

13 September 2023

Dear Sir or Madam

Please find enclosed Unilever PLC's ("**Unilever**") responses to the FRC's consultation document on the UK Corporate Governance Code (the "**Consultation**"). We appreciate the opportunity to comment and would be happy to discuss any matters further if you would find that helpful.

We recognise the need to continually review and evolve the requirements around corporate governance in the UK. We take significant pride in Unilever's annual report and accounts ("**ARA**") and believe that this remains a key reference point for stakeholders to understand our business. However, the ARA is already a long and complex document and we do not believe that the proposals significantly address and consider this. We believe that for all disclosures, the principles of materiality and proportionality should apply. We also believe that the proposals do not address the numerous requirements that large companies with multiple listings (for Unilever, the UK, US and the Netherlands) have to comply with. A lack of alignment or clarity around equivalence to other frameworks, notably the US Sarbanes Oxley Act ("**SOX**"), would result in confusion on disclosure requirements as well as an increased disclosure burden which would not be helpful to users of our ARA.

The appendix to this letter details our responses to the specific questions included within the Consultation document. Our most substantive comments are in relation to the following areas:

- Directors' commitments to other organisations – we have concerns about the amendments to Provision 15 which are designed to encourage greater transparency around directors' time commitments. We think that these changes are impractical for companies and that there are more effective ways to address such concerns.

- Scope of control and risk management –We support the overall principle to strengthen a company’s risk management framework. However, we believe the scope of the code should focus on risk and controls over financial reporting to ensure it remains manageable for companies to implement.
- Consistency – We believe that more consideration should be given to provide alignment and equivalence to SOX requirements. Specifically, around areas such as the reporting frequency and key definitions (for example, material weakness which is currently defined in PCAOB 5).
- Frequency of control effectiveness reporting – we strongly believe that the control effectiveness declaration should be made based on the balance sheet date.
- Phased implementation – a phased implementation approach should be adopted to allow companies and Directors enough time to properly implement and embed the key changes before having to declare their effectiveness.
- Narrative reporting – the proposals are not clear on the scope of the audit committee’s responsibility in relation to narrative reporting, and in particular sustainability reporting.

Thank you again for the opportunity to comment. Please do not hesitate to contact either [REDACTED] [REDACTED] [REDACTED] [REDACTED] if you have any questions or would like to discuss any responses further.

Yours faithfully,

[REDACTED]

## **UK Corporate Governance Code Consultation – Unilever Responses**

### **Section 1**

#### **Q1: Do you agree that the changes to Principle D in Section 1 of the Code will deliver more outcomes-based reporting?**

We agree with the spirit of moving from process based governance reporting to a more outcomes based approach. However, we would like to see further guidance on how to approach this in practice, for example what should a company consider to be an “outcome”.

#### **Q2: Do you think the board should report on the company's climate ambitions and transition planning, in the context of its strategy, as well as the surrounding governance?**

We support the formal introduction of environmental and social measures into Provision 1, however we think that the phrase “including its climate ambitions and transition planning” is duplicative. We believe these are already included in the reference to “environmental and social matters”.

#### **Q3: Do you have any comments on the other changes proposed to Section 1?**

The changes to Provision 6 mean that companies will need to assess and report on the effectiveness of anonymous reporting arrangements for the workforce. We note that it will be difficult to measure the effectiveness of such arrangements because it is not always possible to establish the absence of action i.e. whether there was a worker who wanted to report a concern but either couldn't or wouldn't report it. We would welcome FRC guidance and/or examples of how such effectiveness reviews may be carried out.

## **Section 2**

### **Q4: Do you agree with the proposed change to Code Principle K (in Section 3 of the Code), which makes the issue of significant external commitments an explicit part of board performance reviews?**

We are supportive of the proposed changes to Principle K which leverages the annual board performance review as a tool to assess director commitments. We think that this provides greater flexibility to companies to evaluate the time commitments of their directors. Coupled with Provision 24 (Chair to act on the results of the board performance review and each director to take appropriate action), these changes will lead to more targeted and useful insights on potential director overboarding issues.

### **Q5: Do you agree with the proposed change to Code Provision 15, which is designed to encourage greater transparency on directors' commitments to other organisations?**

The amendments to Provision 15 mean that directors will need to list all significant appointments in the Annual Report and Accounts and describe how they have sufficient time to undertake their role effectively. We do not agree with these changes for a number of reasons.

The term "significant director appointments" is not sufficiently clear and seems likely to lead to uncertainty about the length and exact nature of the disclosures to be made in the Annual Report and Accounts. In addition, it is not practical for companies and directors to draft detailed disclosures on their various time commitments which is ultimately duplicative of activities that are already in process. These activities include periodic reviews of directors' appointments, attendance registers for meetings and workforce engagement sessions. We believe that these activities, which are already disclosed in the Annual Report and Accounts, better address any concerns on director time commitments. Overall, we think that the changes to Principle K better achieves the outcome intended – ensuring that directors' have sufficient time to carry out their responsibilities.

### **Section 3**

**Q6: Do you consider that the proposals outlined effectively strengthen and support existing regulations in this area, without introducing duplication?**

We are supportive of the principles behind the changes to Section 3. However, we note that these changes are ultimately duplicative of requirements set out by the FCA and recommendations set out by programmes such as the Parker Review and the FTSE Women Leaders, with which Unilever already complies.

**Q7: Do you support the changes to Principle I moving away from a list of diversity characteristics to the proposed approach which aims to capture wider characteristics of diversity?**

The changes to Principle I mean that appointments to the board should promote diversity and inclusion of protected characteristics and non-protected characteristics. We are supportive of the changes to this section overall and agree that expanding the criteria to protected characteristics will help companies to consider diversity and inclusion more broadly. However, the reference to “non-protected characteristics” is not a term that is commonly used and simply refers to all other characteristics. Therefore, we would suggest removing the reference to “non-protected characteristics” and use alternative wording such as “protected and other diverse characteristics”.

**Q8: Do you support the changes to Provision 24 and do they offer a transparent approach to reporting on succession planning and senior appointments?**

The amendments to Provision 24 mean that Boards will be required to disclose more information around succession planning. Taking into consideration confidentiality and disclosure obligations for listed companies around succession planning, we would like to see further guidance from the FRC around what disclosure they are envisaging.

**Q9: Do you support the proposed adoption of the CGI recommendations as set out above, and are there particular areas you would like to see covered in guidance in addition to those set out by CGI?**

Please refer to our responses to other consultation questions where we have set out areas that we would like to see covered in guidance.

## **Section 4**

### **Q10: Do you agree that all Code companies should prepare an Audit and Assurance Policy, on a 'comply or explain' basis?**

Yes, we agree that all companies should prepare an Audit and Assurance Policy, on a 'comply or explain' basis. Whilst for premium listed companies most of the content of the proposed Audit and Assurance Policy is already disclosed in various parts of the Annual Report and Accounts, we can see the merit of setting out the details of what assurance is undertaken with respect to the Annual Reports and Accounts in one place and having this signed off by the Audit Committee.

### **Q11: Do you agree that amending Provisions 25 and 26 and referring Code companies to the Minimum Standard for Audit Committees is an effective way of removing duplication?**

We are supportive of taking advantage of any possibilities to avoid duplication. However, we believe that the Minimum Standard should become guidance rather than minimum standards. There are two reasons for this. Firstly, it should allow the implementation to remain at the discretion of the Audit Committee. Secondly, some of the content of the Minimum Standard is ambiguous and reads like guidance, not true minimum standards. For example, paragraph 13 ("The Audit Committee should consider running a price-blind tender"), 14 ("The Audit Committee should also consider asking those firms how such action is in the public interest") and 18 ("The following approaches may be suitable"). In our view, to be implemented as minimum standards they should be more concise and more precise.

In addition, we believe that some duplication remains between Provision 26 and the minimum standard. For example, Provision 26 still refers to the Audit Committee's main roles and responsibilities to include "promoting effective competition during the tendering for an external audit, to support market diversity" and "considering the impact that this has on independence" which is also set out in the Minimum Standard for Audit Committees.

We are not supportive of the requirement in Provision 26 that Audit Committees should engage with stakeholders on their role, the scope of their work and the Audit and Assurance Policy. We believe that stakeholder engagement should be at the discretion of the Audit Committee because it is highly dependent on what the stakeholders of different companies want. Engagement topics should be those that are most relevant to stakeholders, and we do not believe the scope of an auditor's work or the Audit and Assurance Policy would always meet these criteria. If this provision is retained, we believe the requirement should be clearer as it is currently too vague to be actionable.

### **Q12: Do you agree that the remit of audit committees should be expanded to include narrative reporting, including sustainability reporting, and where appropriate ESG metrics, where such matters are not reserved for the board?**

We believe that the proposed remit of the Audit Committee relating to sustainability reporting which is outlined in the proposal is not clear. Does the proposed remit include all of a company's sustainability reporting (for example, everything published on a company's website as well as what is in the Annual Report and Accounts), or does the proposed remit cover reporting that is required by statute and regulation?

If the former, then we believe that it is unreasonable for any Board level committee to take responsibility over all sustainability reporting. If it is the latter, then we agree that given their expertise in setting and monitoring policies and external reporting, the Audit Committee is the most appropriate stakeholder to own this.

**Q13: Do you agree that the proposed amendments to the Code strike the right balance in terms of strengthening risk management and internal controls systems in a proportionate way?**

In principle, we are aligned that there is a need to amend the Code to provide a proportionate way of strengthening companies' risk management and internal control systems. However, we maintain that the scope of the Code should focus on risks and controls over financial reporting to avoid overburdening companies. The current wording allows for too much interpretation, and it is not practical for companies to obtain assurance over all reporting controls.

There is a need for clearer guidance with regards to the concept of materiality and how this should be considered when defining what should be included in the scope of the system of internal controls. This will avoid an expensive tick box exercise which may not add value.

The suggested revisions do not align with the requirements under the US Sarbanes-Oxley Act (SOx) and will place additional burden on dual listed companies which would need to undertake two sets of assurance and reporting. We suggest a specific statement is added to the Code that recognises that for companies who are dual listed on a US stock exchange, compliance with SOx requirements would be equivalent to evidence of compliance under the Code.

**Q14: Should the board's declaration be based on continuous monitoring throughout the reporting period up to the date of the annual report, or should it be based on the date of the balance sheet?**

The Board's declaration should be based on the date of the balance sheet as this is aligned to the approach under SOx and will provide adequate assurance over the completeness and accuracy of the data in the Annual Report and Accounts. The burden on companies to move to a continuous monitoring approach would be very onerous. As a middle ground, the declaration could be made in line with the external reporting schedules of companies, i.e. in line with half year and year end reporting.

**Q15: Where controls are referenced in the Code, should 'financial' be changed to 'reporting' to capture controls on narrative as well as financial reporting, or should reporting be limited to controls over financial reporting?**

As above, it is our view that the reporting should be limited to controls over financial reporting. It is critical that in strengthening the requirements around the internal control framework for UK Companies, consideration should be given to alignment and equivalence with the current SOx requirements. It would be an incredible burden if companies that were also US listed had to comply with two non-aligned control frameworks. In addition, it would cause significant confusion in businesses and thus more likely lead to control deficiencies. For those companies that are not dual listed, the level of effort to be able to comply with the proposed requirement cannot be underestimated.

With regards to the narrative, the word “control” is misleading - we agree that there should be validations or assurance mechanisms that provide comfort over the completeness and accuracy of the information reported but we suggest that this should be defined in the Audit and Assurance Policy rather than needing to be within the internal control framework.

**Q16: To what extent should the guidance set out examples of methodologies or frameworks for the review of the effectiveness of risk management and internal controls systems?**

We do not believe there is merit to defining or mandating specific frameworks under the Code however guidance could set out examples of methodologies or frameworks for the effectiveness reviews. Frameworks such as the COSO ERM framework or ISO 31000 already exist as recognised risk management standards, which are both industry and sector agnostic, and also meet requirements under SOx. Guidance should also avoid being prescriptive about the role of ‘other providers of external assurance’; this should be left to the discretion of the Audit Committee as every company and scenario is unique.

**Q17: Do you have any proposals regarding the definitional issues, e.g. what constitutes an effective risk management and internal controls system or a material weakness**

It is critical that in strengthening the requirements around an internal control framework for UK Companies, consideration is given alignment and equivalence with the current SOx requirements. This same principle should be applied to the definitions. For example:

- The SEC defines Internal Controls over Financial Reporting as “A process designed by, or under the supervision of, the issuer’s principal executive and principal financial officers, or persons performing similar functions, and effected by the entity’s board of directors, management, and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles (GAAP)”.
- PCAOB 5 defines a material weakness as “a deficiency or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company’s annual or interim financial statements will not be prevented or detected on a timely basis”.

Further, frameworks such as the COSO ERM framework or ISO 31000 already exist as recognised risk management standards, which are both industry and sector agnostic, and also meet requirements under SOx. These frameworks should also be considered when finalising the definitions under the Code.

**Q18: Are there any other areas in relation to risk management and internal controls which you would like to see covered in guidance?**

It is critical that in strengthening the requirements around risk management and internal controls, consideration is given to the alignment and equivalence with current SOx requirements. The UK requirements should accept that the processes needed to ensure compliance with SOx requirements are adequate to meet the UK requirements. It would be an incredible burden if companies that were also US listed had to



comply with two non-aligned control frameworks. In addition, it would cause significant confusion in businesses and thus more likely lead to control deficiencies.

**Q19: Do you agree that current Provision 30, which requires companies to state whether they are adopting a going concern basis of accounting, should be retained to keep this reporting together with reporting on prospects in the next Provision, and to achieve consistency across the Code for all companies (not just PIEs)?**

There are other parties that are better placed to respond given Unilever falls within the definition of PIEs and already reports on a going concern basis.

**Q20: Do you agree that all Code companies should continue to report on their future prospects?**

Yes, we believe that users of financial statements place a high level of importance in understanding a company's future prospects. However, we do believe that the amendments to the existing Provision 31 should explicitly require the specific scenarios considered as part of the assessment. We believe that this would avoid boilerplate disclosures.

**Q21: Do you agree that the proposed revisions to the Code provide sufficient flexibility for non-PIE Code companies to report on their future prospects?**

There are other parties that are better places to respond – please see the response to Q19 above.

## **Section 5**

### **Q22: Do the proposed revisions strengthen the links between remuneration policy and corporate performance?**

Yes, the proposed amendments to the Principles in Section 5 make it clear that remuneration outcomes should be clearly aligned to company performance, values and long-term strategy.

### **Q23: Do you agree that the proposed reporting changes around malus and clawback will result in an improvement in transparency?**

We are broadly supportive of the changes to Section 5. In relation to the addition of Provision 40 on reporting for malus and clawback, we would request that the FRC clarifies who the reporting obligation applies to, for example, only Executive Directors. To help ensure consistency of disclosures in the Annual Report and Accounts we suggest further guidance is provided on the five year reporting requirements on the malus and clawback provisions.

### **Q24: Do you agree with the proposed changes to Provisions 40 and 41?**

Yes, we are supportive of these changes, as it allows companies maximum flexibility to explain how remuneration is determined and supports company strategy.

### **Q25: Should the reference to pay gaps and pay ratios be removed, or strengthened?**

Yes, we are supportive of this removal, as companies must explain why remuneration is appropriate under proposed Provision 43 in any event, which may include internal and external measures.