David Styles; Director, Corporate Governance and Stewardship
Financial Reporting Council (FRC)
125 London Wall
London, EC2Y 5AS
United Kingdom

13 September 2023

UK Corporate Governance Code Consultation

Dear Mr Styles,

MSCI[1] welcomes the opportunity to provide feedback to the FRC's consultation on enhancing the UK's Corporate Governance Code (the "Code"). The proposed changes outlined in this consultation will ensure that the Code remains fit for purpose by incorporating considerations such as sustainability, ESG and diversity into the corporate governance framework.

MSCI is a leading provider of ESG and other non-financial data and analytics to the world's largest financial institutions and has collected climate and environmental, social, and governance (ESG) related disclosures from thousands of companies globally for over two decades.

Below we list three broad observations for consideration when concluding your review of the Code. We provide a more detailed response to the consultation questions in the Annex.

1. The proposed changes to the Code will help enhance its effectiveness in light of new and emerging areas of board responsibility and governance. Particularly on sustainability, ESG and other non-financial matters.
2. The FRC's proposals to further strengthen the risk management provisions are vital for market confidence, particularly during times of economic uncertainty.
3. To support consistent and comparable information for investors and other stakeholders, the Code should be aligned, where appropriate, with other global corporate governance frameworks.

We welcome further engagement with the FRC on the future of the Code and other related matters such as the future of non-financial reporting in the UK.

Yours sincerely,

[redacted]

1 MSCI ESG Ratings, research and data are produced by MSCI ESG Research LLC. MSCI ESG Research (UK) Limited is a subsidiary of MSCI ESG Research LLC.

ANNEX

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

No response.

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?

Yes. Asking companies to report on their climate strategy will help stakeholders understand which climate issues are addressed and prioritised by the board, how this risk is being managed, which targets are being used and their robustness, and clarify the approach to achieving net-zero.

In the updated OECD/G20 Principles of Corporate Governance[2], published earlier this year, there is a new section on "sustainability and resilience" which provides recommendations to support companies in managing the risks and opportunities of the climate transition and other sustainability challenges.

A number of other jurisdictions, such as Japan, have already embedded climate and sustainability considerations into their corporate governance frameworks.[3]

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

The change to Provision 3 will help investors and other stakeholders in their assessment of the success or failure of a company's engagement practices, as boards will need to report on the outcome of their engagements.

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?

No response.

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?

No response.

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

Yes. These proposals allow boards to make decisions on board composition that are aligned with existing diversity requirements.

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2 OECD/G20 Principles of Corporate Governance, accessed via https://www.oecd.org/corporate/revised-g20-oecd-principles-corporate-governance.htm

3 See Japan Corporate Governance Code 2021

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?

No response.

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

Yes, disclosure about succession planning continues to be opaque so this approach should provide stakeholders with insight into the board's succession strategy, while also allowing the board to maintain confidentiality regarding specifics.

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?

Yes. Adoption of the CGI recommendations on board performance reviews is supported.

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

No response.

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 support efforts that are aimed at improving the quality of sustainability reporting being published by a company.

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?

Yes, these amendments provide clear direction on disclosure regarding internal controls and risk management, which would lead to uniformity in how companies describe these systems. This would help with company comparison on how risks are being managed, which would be beneficial for stakeholders.

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 show continuous monitoring of risk management processes over the course of a year, as this would provide assurance that these vital systems are being overseen at the highest level. This would hopefully allow boards to respond quicker to incidents of risk management failure.

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)?

Yes. Reporting on the going concern basis provides stakeholders with assurance that the board is thinking about the future of the company, both strategically and financially. It provides information on the material uncertainties identified by the board and the measures taken to address them, which is important for investors and other stakeholders.

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

Yes, investors and other stakeholders should have as much relevant and accurate forward-looking information as possible in order to be able to assess a company's future prospects.

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

No response.

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

Yes, currently it can be difficult to determine the circumstances under which the clawback and malus provisions have been exercised. This proposed could provide additional useful information and enable investors other stakeholders to engage further with the board, if required.

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

Given that companies have to report their gender pay gaps and CEO pay ratio due to other legislation, removing these references from the Code avoids duplication.