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6 November 2013

Catherine Woods  
Financial Reporting Council  
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### **Directors' Remuneration – Consultation Document**

Dear Catherine,

In respect of the consultation document regarding potential changes to the UK Corporate Governance Code, I am writing to give feedback for The Vitec Group plc.

- (1) Extended Clawback Provisions – Current market practice is very much moving towards clawback provisions within variable pay arrangements. Institutional shareholders look for such provisions in their voting considerations when considering long term incentives and remuneration reports. Most companies operate clawback on incentives covering variable pay enabling a company to either reduce, cancel or impose further conditions upon an award. Any amendment of the Code to include a comply or explain presumption would in effect be catching up with market practice.

From a practical perspective, it is easier to apply clawback to variable pay that has not actually been paid out. Once an award has been paid out to an individual then it becomes complicated, costly and legally difficult to pursue recovery with no certainty of being effective. Should a company discover that variable pay has been paid out based upon an illegal act then it already has the power to sue an individual for recovery. However, that must be a commercial decision for the company to make since it may not be in its commercial interests to take such action particularly if there is little or no realistic prospect of recovery. The matter is complicated by the treatment and payment of taxes, lapse of time and other difficulties such as variances in share prices and foreign exchange rates and jurisdiction of an individual. Once something has been paid out to an individual then clawback of an amount paid out is extremely difficult to pursue.

We do not consider it practical to specify precisely the circumstances under which payments could be withheld, reduced or have additional conditions applied. Once circumstances are prescribed then it becomes an objective test and this does not allow for individual company circumstances to be considered. It is better that companies have flexibility to apply a subjective test since circumstances will vary between companies.

2. Remuneration Committee Membership – We strongly oppose any proposal to change the Code deterring the appointment of an executive director to the remuneration committee of other listed companies. For companies such as Vitec we have a limited resource in terms of the number of directors with requisite skills and relevant experience to manage a FTSE small cap company. This covers not only developing strategy and delivering on operational performance but also managing risk and ensuring that appropriate and stretching remuneration packages are in place for executive management. We appoint directors who have relevant experience in our

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markets and understand the challenges faced by our business. A non-executive director who is an executive elsewhere has first-hand experience of the challenges faced in running a FTSE listed company with international operations. To exclude that individual from being involved in the remuneration committee is a waste of that experience and knowledge in terms of setting appropriate remuneration packages that drive executives to deliver on sustainable shareholder value. To say that there is a danger of perceived conflict as these individuals have a personal interest in maintaining the status quo in pay setting culture and pay levels is unnecessarily restrictive. Directors are sometimes faced with conflicts and manage them accordingly and they are very clear that any abuse of a conflict is a serious legal issue. As long as some members of a remuneration committee (ideally the Chairman) do not hold an executive position elsewhere then that should suffice.

We currently have seven directors including two executive directors and a Chairman. The Remuneration Committee to function effectively must comprise three non-executive directors and for companies such as Vitec there is a real risk where we want our Board to comprise individuals with relevant experience that we could have quorum issues if certain non-executive directors were excluded from the Remuneration Committee and being involved in the setting of executive pay.

3. Votes against the remuneration resolution – We do not consider there is any need to require companies to report to the market in circumstances where a company fails to obtain at least a substantial majority in support of a resolution on remuneration. This should be a matter for the company and its shareholders to decide upon and does not require further regulation. Any Board that received a significant against vote on remuneration (in excess of 20%) would be foolhardy to ignore any engagement with those shareholders. In practice, companies consult with shareholders on an ongoing basis and in the event of a significant against vote would seek to engage and understand the rationale for such dissent. Any board that failed to engage would risk further sanctions with shareholders potentially escalating an against vote in terms of the re-appointment of directors or other resolutions. It is our opinion that the current system works and does not require any further changes.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John McDonough". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John McDonough, CBE  
Chairman  
The Vitec Group plc

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