

National Grid's response to Financial Reporting Council's October 2013 consultation on Directors' Remuneration

The following is sent on behalf of the Remuneration Committee of National Grid plc, and represents its response to the FRC's October 2013 consultation on Directors' Remuneration.

Extended clawback provisions

The Remuneration Committee of National Grid plc (the "Committee") believes that, in line with the Large and Medium-sized Companies and Groups (Accounts and Reports) (Amendment) Regulations 2013 ("the Regulations"), the UK Corporate Governance Code (the "Code") should require companies to state whether or not they have clawback and/or withholding provisions in respect of variable pay, as part of overall disclosure on arrangements that the company has in place to avoid 'payments for failure'. It is the Committee's view that, in practice, pressure from investors, together with such disclosure, should be sufficient to ensure that remuneration committees implement appropriate measures.

Adoption of terminology consistent with the Regulations would be welcomed. However, the Committee does not believe that the Code should go so far as to specify the circumstances under which payments could be recovered and/or withheld: this is a matter that will inevitably differ company to company and should be left for remuneration committee discretion. In particular, specification of circumstances within the Code may give rise to unforeseen and unintended consequences or to an overly legalistic approach being adopted by parties.

There are practical considerations relating to the application of clawback, which are more prominent when the person involved is no longer employed by the company. In particular, these include the fact that the person concerned may no longer have the resources to pay back the money, whether the money is repaid net or gross of tax, and complications relating to tax paid by the company and the director on the payments already made. The Committee believes that, in practice, remuneration committees with a broad discretion both to clawback sums already paid and to withhold sums to be paid will more easily find a solution that is fair and appropriate for shareholders, as the latter are easier to effect in practice.

Remuneration committee membership

The Committee believes that it would be unhelpful for external bodies, rather than investors, to begin to involve themselves in the precise make up of boards and board committees. Rather it is appropriate for the nominations committee of the board to make recommendations on board and committee appointments, consistent with the requirements of the company at that time, and for investors to hold them to account for those recommendations as appropriate. In particular, the Committee believes that company boards and board committees can and do benefit in a wide variety of ways from having the expertise and current knowledge that executive directors from other companies can bring.

The Committee also notes that there would appear to be no correlation over the past 10 years between an 'executive NED' (that is, a non-executive director who serves as an executive director on another company's board) sitting on the remuneration committee and shareholders expressing their dissatisfaction with the work of the remuneration committee via a vote against the directors' remuneration report. In

addition, the Committee notes that only a minority of remuneration committees within the FTSE350 has any 'executive NED' as a member, and that there has been a decline in the number of 'executive NEDs' sitting on such remuneration committees over the past 10 years.

The Committee would therefore urge the Council against intervening in this matter.

Votes against the remuneration resolutions

The Committee believes that there is no need for an explicit requirement in the Code 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, in addition to what is already set out in the Regulations, the guidance and the Code.

The Committee is concerned that the introduction of such a requirement would introduce a greater level of influence over remuneration policy for minority groups than is appropriate to their level of investment in the company. In addition, it believes that a level of minority dissenters could tie up a significant amount of senior management time to no overall good effect for shareholders in general. In practice the Committee is of the view that a chairman will always seek to discuss directly with shareholders any areas of concern raised by them during the year and in particular would always seek to understand the reasons behind a substantial level of dissent from either a proposed or, indeed, approved course of action, whether related to remuneration or not. However, there may in practice be many reasons why a remuneration resolution would attract a significant vote against, and this is best dealt with on a case-by-case basis by chairmen without the need to report back to the rest of the shareholder base afterwards.

Other possible changes

The Committee does not believe that the provisions of the Code are incompatible with the Regulations. With the introduction of the Regulations from 1 October 2013, the Committee is of the view that it is important to allow market practice to develop in the area of executive remuneration and the disclosure thereof, in particular to meet the needs of investors.