

03 March 2010

Chris Hodge
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By email to: codereview@frc.org.uk

Dear Chris

Consultation on the revised UK Corporate Governance code

Thank you for the opportunity to comment on the above consultation.

Ultimately, we believe that the FRC should judge the effectiveness of the code against whether the following desirable outcome is achieved:

Boards should be focused on the long-term sustainability of their business. They should be confident that their business models will deliver this –with appropriate risk mitigations as necessary - and that performance indicators and incentives reinforce the desired behaviours.

Further comments on the draft code are set out in the attached Appendix.

Please let me know if you have any queries on our comments.

Finally, we would like to congratulate the FRC on managing this review of the code against a backdrop of challenging circumstances. Taken as a whole, the proposed revisions represent a considered and measured response and we are hopeful that they will contribute to continuing improvements in corporate governance.

Yours sincerely



CHARLES TILLEY
Chief Executive

Enc: *Enterprise Governance – restoring boardroom leadership*

Appendix

General comments

1. We particularly welcome the new principle that makes explicit the board's responsibility for overseeing risk management as well as the clarification in principle A1 that the board is responsible for the long-term success of the company.
2. We are also very pleased to see that the FRC has chosen only to implement the Walker proposals that are relevant to the entire corporate sector.
3. As indicated in our last response, we suggested that the time has now come to drop the word 'combined' and that the code should be renamed. We therefore welcome the proposal to change the name of the code to the UK Corporate Governance Code.
4. We are particularly pleased with the emphasis on ensuring adequate time for discussion on strategic issues and on promoting a culture of constructive challenge. However, we should not under-estimate the challenge that this will provide to boards. CIMA recently published a report *Restoring boardroom leadership* which picks up on many of the themes in the FRC review (www.cimaglobal.com/enterprisegovernance). In particular, we focus on the practicalities of creating a supportive challenge culture. We are now looking to develop further work on the importance of good management information and the role of the management accountant in supporting the effective non-executive director. In our initial submission to the FRC, we said that the FRC has a potent role to play in championing good governance and that it could commission and disseminate appropriate research, for example in considering best practice in provision of information to boards. CIMA would be very interested in participating in such initiatives. There is plenty of scope here to demonstrate the importance of effective connectivity between board and management.
5. We also note (para 3.67 of the final report) that the FRC is keen to encourage development of best practice in relation to corporate governance reporting and has suggested consideration of a report similar to the ASB report on good and bad practice on other aspects of narrative reporting (*Rising to the challenge*, October 2009). We would welcome such an initiative.

Our comments below relate to issues on which the FRC has specifically requested views.

Comments on the introductory section

We note that page 3, paragraph 4 of the consultation document requests comments on the introductory sections. Overall, we believe that the introductory sections represent a significant improvement. We particularly welcome the emphasis on long-term sustainable success and effective board behaviour. We are also pleased to see the introduction of a separate section on the 'comply or explain' principle given its importance in the successful implementation of the UK corporate governance regime.

However, we would suggest a couple of additions which we would strengthen these sections even further.

While it is useful to emphasise the challenges of running a board well in the chairman's preface, we feel that an opportunity has been missed here. The scale of the economic and financial crisis has been such that, understandably, public expectations of boardroom behaviour are more demanding than ever before. We would like to see a clear call to action to all company boards to demonstrate the highest levels of ethical behaviour and to remind them of the public interest dimension of what they do.

We also felt that some of the wording in the final report could also be usefully included in the 'Comply or explain' section – in particular, part of section 2.8 which reads:

If, as a result, the board considers that following one of the Code's provisions would adversely affect its ability to apply the related principle it should not feel constrained by that provision. The provisions describe one route by which the principles might be met, but not the only route.

We feel that that these words convey the spirit of 'comply or explain' very powerfully and it would be useful to include them in the code itself.

Comments on proposed principle B7 – re-election

In our previous response, we indicated that we did not believe that the code should recommend annual re-election. This was on the grounds that, as it stands, the code does not prevent annual re-election and we did not think that there was any merit in being more prescriptive. In view of the FRC's intention to amend the provisions, however, our preference would be to require only the chairman to be subject to annual re-election.

Comments on proposed provision C.1.2

We also note (para 3.54 of the final report) that views are specifically requested on the wording of proposed provision C.1.2:

The directors should include in the annual report an explanation of the basis on which the company generates revenues and makes a profit from its operations (the business model) and its overall financial strategy.

We believe that the reference to financial strategy is too narrow and that the word 'financial' should be omitted. Financial strategy is usually regarded as the financial dimension of the overall corporate strategy with focus on such issues as cash and capital requirements, hedging policies etc. We would argue that the explanation should cover corporate strategy in its entirety but that it should state that this should include specific reference to the organisation's financial strategy.