

1 March 2010

Christopher Hodge
Corporate Governance Unit
Financial Reporting Council
Fifth Floor
Aldwych House
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London, WC2B 4HN

Dear Mr Hodge

Response to the FRC's consultation on the revised UK Corporate Governance Code (December 2009)

Invensys welcomes the opportunity to respond to the FRC's consultation on the revised UK Corporate Governance Code (the **Code**).

We consider the change of name and structural changes to the Code to be an improvement. The Code's overall aim to improve Board practice and the Code's context and development to date are more effectively conveyed in its revised format.

We set out below our responses to specific issues which you raised for consultation and which concern us:

External evaluation

We recognise the merit of external evaluations but do not consider them essential. A properly conducted, rigorous internal evaluation is equally valid and valuable. External evaluations impose a heavier cost and time burden upon companies to sufficiently engage with the evaluator in order to make the evaluation a worthwhile exercise and may not be suitable for all companies on a mandatory basis. Additionally, internal evaluation benefits from the depth of experience and knowledge of the internal reviewers who have significant experience of working together and insights into working behaviours.

In our view external does not equal better; much depends on the quality of the service provider. The choice to undertake an external evaluation is something that should be determined by the Board.

Disclosure

We agree that disclosure in relation to business models and overall financial strategy could be improved. However, further guidance is necessary to make clear the level and purpose of disclosure required. Otherwise, there is a danger that this disclosure could be merely a boilerplate disclosure and not meaningful.

Frequency of director election

We consider that the current three year rotation works well. In our view annual re-election of all directors will not achieve the aim of greater accountability and in fact could act as a distraction to the work of the board. Should shareholders have concerns regarding a director they already have remedial routes available to them: either by approaching the Senior Independent Director (SID); or, in extreme situations, by proposing a Special Resolution for their removal. The SID route is well established and avoids the potentially adverse effects on companies' reputations that could be brought about by annual re-election.

We are concerned that compulsory annual re-election could undermine the principles the Code changes are endeavouring to embed and:

- engender short term, defensive decision making;
- give excessive power to hostile minorities;
- undermine the concept of the unitary Board;
- make recruitment of directors more complex and difficult because it will make such appointments less attractive to senior people; and
- undermine the execution of long term strategies.

We concur with the view of the ICSA that re-election periods should not be prescribed by the Code but rather left to companies to determine and allow market practice to develop.

In addition, and for the same reasons, we oppose the annual re-election of Chairmen. The proposed revised Code clearly states the pivotal role of the Chairman in Section A. Annual re-election could undermine the ability and responsibility of the Chairman to lead the Board and take decisions in the Company's best long-term interests. We consider annual re-election for directors who have served longer than nine years remains appropriate.

Remuneration

We support the underlying concept in accordance with which the suggested amendments¹ are made. Namely, that remuneration should be designed to recruit, retain and motivate

¹ Namely, to:

- link remuneration and risk policies and systems;
- use non-financial metrics when measuring performance; and
- include clawback provisions.

directors to act in the best long-term interests of the company and not for short-term gain.

However, we are concerned about the practical implications of the suggested amendments and whether they are workable. In particular, the clawback provision. It is not clear how this would work in practice. The suggestion is that this would be operable for financial misstatements but there are already adequate legal remedies to address this and other concerns about financial mismanagement.

We note the emphasis from the Walker Review and others upon shareholder engagement and the proposed Stewardship Code. However, we would highlight that perhaps a fundamental issue to bring transparency to, is the structure of remuneration of fund managers. If fund managers are not encouraged by the structure of their remuneration to pursue the aims of the Code and promote decision making in the long term interests of companies, it will have an adverse effect regarding their investment decisions in companies.

Yours sincerely



Sir Nigel Rudd
Chairman



