

19 July 2007

Chris Hodge
Corporate Governance Unit
Financial Reporting Council
Fifth Floor
Aldwych House
71-91 Aldwych
London WC2B 4HN

By email: codereview@frc.org.uk

Dear Mr. Hodge

Response to the review of the impact of the Combined Code

Thank you for the opportunity afforded to us to comment on the impact and effectiveness of the Combined Code. Our views are as follows:

Does the Code support better Board performance over time?

We believe that the Combined Code is an effective means for delivering flexible yet robust governance for UK companies. However, it must be recognised that the regulatory context in which the Code operates has become particularly burdensome and it is important therefore to ensure that the governance requirements of the Code do not become unnecessarily onerous.

There is concern that corporate governance issues are placing increasing demands on UK companies, thereby distracting Boards' focus away from strategic and operational issues. The extensive regulatory changes implemented over the last few years (including International Financial Reporting Standards, the Financial Services Action Plan, amendments to the Listing, Prospectus, Disclosure and Transparency Rules, the EU Company Law Action Plan, the revised Turnbull Guidance and, going forward, the Companies Act 2006) have all put considerable pressure on UK companies and their Boards. Companies need a settled period during which no further significant amendments are made to the regulatory environment which would necessitate further changes to corporate governance procedures.

Is the "comply or explain" approach working effectively?

We fully support the "comply or explain" approach. Whilst this works well for companies, in practice its effectiveness is hampered by the fact that some institutional bodies either do not consider the underlying explanations for non-compliance or make voting recommendations on the basis of their own policies which go beyond the Combined Code. This problem is then compounded by some institutions that rely on the recommendations of such bodies and adopt a 'tick box' approach.

Despite the existence of the Code which was formulated following consultation with all interested bodies, there remains a proliferation of interpretations and guidance (some of which are conflicting) which are most unhelpful to companies in establishing their corporate governance policies and procedures. This should be actively discouraged and all interested parties should rely on the Combined Code.

The “comply or explain” approach relies on constructive engagement between issuers and investors. Above all, the Code should not be seen as a series of rules to be followed. Companies should be encouraged to explain their approach to governance, particularly where this deviates from the Code’s provisions, and in doing so avoid general or boiler plate explanations. In turn, investors should engage with issuers on matters of governance and give proper hearing and consideration to explanations for any departure from the Code.

What impact has the Code had on smaller companies?

Whilst smaller companies may not have comparable resources to apply to compliance issues, we believe good governance is important for all companies irrespective of size and would caution against creating an alternative governance regime for smaller listed companies.

The preamble to the Code suggests that investors should, when assessing implementation of the Code’s provisions, take into account, inter alia, the size of the company. One would hope therefore that investors are sensitive to the perspective of the smaller listed company when evaluating how the Code’s provisions have been applied, and that such companies fully embrace the “comply or explain” principle when reporting on their approach to governance.

Do disclosures on the Combined Code in annual reports provide useful information to shareholders at proportionate cost to companies?

Corporate governance statements have become more informative and have improved in quality. We acknowledge however that there is a risk that such statements could become formulaic and repetitive over time. Provided the “comply or explain” approach is operating correctly, companies should feel able to report fully on their approach to governance and not become reticent to “explain” non-compliance with the Code. There is scope for corporate governance statements to become more informative, but we believe this can be achieved through a best practice approach rather than by regulation.

In summary, we believe that changes to the Code are neither necessary nor appropriate at this time. Any amendments required as a result of the implementation of the 8th European Company Law Directive and the EU Directive on Company Reporting should not be made without specific consultation on individual issues and on any proposed new wording to allow considered comment by all parties.

Yours sincerely



Grey Denham
Group Secretary