



Scarborough MINERALS

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Sir Christopher Hogg
Chairman
Financial Reporting Council
Aldwych House
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Dear Sir Christopher,

Thank you for giving me the opportunity to comment on the FRC's consultation paper on the impact of the Combined Code.

As currently the Chairman of a small plc, but having been, for almost twenty years, until 2002, the Chairman of Normandy Mining, one of the biggest mining companies in Australia, I would respond as follows on your issues for comment:

1. Does the Code support better board performance over time?

In general yes, but at the expense of both flexibility of response to events and increased Company Secretarial infrastructure.

2. Is the 'comply or explain' approach working effectively?

Yes, although your paper rightly identifies the fact that smaller companies with more to explain, have higher costs as a result. An approved generic "small company" explanation along the lines of "as a smaller company and after proper consideration the company has not complied with the following ...," would save much effort here. I should also say that the UK version of 'comply or explain' is much preferable to the detail required by the Australian Code.

3. What impact has the Code had on smaller companies?

See above, but the overall effect has probably been an increase in the attractions of AIM vs the full list.

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

In general, the answer is probably yes for established companies, but my experience with Scarborough last year is that achieving the required standard with that was effectively a new company can be both expensive for the company and time-consuming for directors.

In addition, I should like to make the following general points:

- a) The need for "recent financial expertise" in audit committee members is increasingly difficult to achieve especially with the recent transition to IFRS with their wholesale changes to the accounting framework which have made the financial experience of many senior directors, including myself, almost redundant.
- b) The introduction of the Combined Code and other moves to focus directors on their responsibilities have resulted in staff and advisers' being very much focussed on



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trying to force directors to assume all the risk even when the reality is that when faced with hundreds of pages of technically complex documentation, any director must place reliance on both staff and advisers. Equally, there is a tendency for board members to devote time to self-protection that would actually be better spent on maximising the business.

- c) Even as a committed and experienced public company person, as a former practicing accountant, I cannot ignore the fact that private equity continues to expand at a great pace whereas the public company sector is declining. There is, to my mind, an obvious correlation with the increased scope, cost and personal risk involved with the corporate governance requirements of a public company that do not exist in private equity.

I think it is extremely concerning that this private equity growth is leading people to say we should legislate to control them, rather than analysing and seeking to find out how to reduce the onerous compliance being placed on public companies and their boards.

Interestingly, all analysis shows that private equity has had a far better track record of managing companies in more recent times than the public sector, certainly as regards to business failure.

In the first two cases, the issue is more serious the smaller a company is, since there are fewer people available.

Naturally, I am happy to discuss these points with you further if that would be helpful.

I am also happy for this letter to be on the public record.

Yours sincerely,

Robert J Champion de Crespigny AC, FCA
Chairman