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Dear Christina

Professional Oversight Board – Consultation on Professional Oversight Board Draft Publication Scheme - December 2007

INTRODUCTION

- 1 Ernst & Young LLP welcomes the opportunity to comment on the consultation paper entitled *Consultation on Professional Oversight Board Draft Publication Scheme* (“the Consultation Paper”) issued by the Professional Oversight Board (“POB”).
- 2 We offer an overall observation below before commenting on POB’s specific questions.

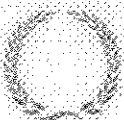
OVERALL OBSERVATION

- 3 As a firm, we support transparency in general terms both for ourselves and other organisations which have a public interest element and/or external ownership. We believe in openness, transparency and constructive dialogue which form the basis of our approach to working with regulators like POB and the Audit Inspection Unit. It is in this spirit of openness that the large audit firms in the UK, including Ernst & Young, have each voluntarily published an annual report and accounts for more than 10 years. For this reason, we are broadly supportive of the draft publication scheme.

RESPONSE TO SPECIFIC QUESTIONS

Q1 Have we categorised any information as being excluded from the publication which could be released?

No, we support POB’s categorisation (but see below).



INVESTOR IN PEOPLE

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Q2 Have we omitted any information/documents which should be classed as exempt from the publication scheme?

We believe that the following information/documents should be explicitly classed as exempt from the publication scheme:

- Under “Non statutory functions, AIU”: names and details of those companies whose audits have been inspected.

As we have said previously, publishing a list of companies whose audits have been inspected has the potential to cause harm to the markets. We accept that it will be a matter for POB whether any exemptions would properly apply but, in our view, (i) the framework under which POB/AIU receives information in confidence about companies, audit firms and individuals; (ii) the damaging effect on the financial markets that releasing some information may have and (iii) the overriding need for POB to carry out its public functions properly to achieve its objectives would each allow POB to refuse disclosure of these details legitimately.

Subject to the above, we otherwise believe that POB has included the classes of information/documents which should be classed as exempt from the publication scheme.

OTHER COMMENTS

Operation of the scheme and dealing with FOIA requests

From 6 April 2008, companies and audit firms will be heavily reliant on POB to respond to FOIA requests as legally required but not beyond. POB must, of course, give disclosure where it is properly due in the public interest but it also needs to remain firm, using disclosure exemptions where applicable, so that it may continue to carry out its public responsibilities effectively.

In this connection, we would welcome more clarity from POB on how it intends to operate its publication scheme. For example, we are interested in understanding on how POB plans to proceed when proposing to disclose information following a request where such disclosure would contain sensitive information relating to third parties such as companies or audit firms.

While we understand that this is likely to already have been considered, we thought it might be helpful to provide an example model that works effectively. Where we contract to provide services to a client which is subject to the FOIA (e.g. a local authority), we often include a term in a contract which requires our client to notify us promptly if the client receives any request under the FOIA for disclosure of any information which, if disclosed, would include information provided by us to the client. The client agrees to notify us upon receipt of a relevant request and prior to any such disclosure.

Apart from the fact that this tends to accord with local authority policy anyway, we include this term because naturally we are concerned to protect our confidential or commercially sensitive information which, but for the contract with the local authority, would not otherwise be in the public domain. Recognising that it is for the local authority to make the final decision on whether or not certain exemptions under the FOIA apply, we ask for advance disclosure. This allows us the opportunity to make representations to the local authority about which exemptions may apply. We would welcome a policy statement from POB on similar lines.

Future changes to the publication scheme

The draft scheme states that POB will review it regularly. We encourage POB to consult if the outcome of any future reviews is either to add or remove documentation/information from the scheme.

CONCLUSION

We look forward to reading the other responses which we hope will be posted to POB's website shortly and to reading the results in due course.

We are grateful to POB for publishing the Consultation Paper and for the analysis it has put forward. If you would find it useful, we would be happy to discuss further with you or your colleagues any of the points we have raised.

Yours sincerely



Jan Babiak
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