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Dear Mr Hodge

Review of the Effectiveness of the Combined Code
Progress Report and Second Consultation (July 2009)

As you will be aware, on 28 May 2009 we responded to the Financial Reporting Council's ("FRC") call for evidence review of the effectiveness of the 2008 Combined Code (the "Code") highlighting some areas that we consider to be of specific importance.

Further to the Progress Report and Second Consultation published by the FRC on 28 July 2009, we have the following additional comments.

We are supportive of the three guiding principles that the FRC intends to adopt when assessing the lessons to be learnt from the financial crisis and the case for changes to the Code and its accompanying guidance during the next phase of the review. We would welcome clarification of best practice, rationalisation of disclosure requirements and agree that additional prescription should be avoided where possible.

We re-iterate our view that the most important aspect of the Code, and the key to its success, is that it takes the form of best practice principles rather than formal legislation. The Code offers a degree of flexibility that is important in allowing companies to conduct their business in ways which are in the best interests of that company and its stakeholders. A more rigid, statute-based framework does not have the advantage of adaptability. However, we would highlight that Sir David Walker's consultation report on corporate governance (the "Walker Review") proposes to incorporate the majority of its recommendations within the Code. As many of the Review's recommendations will represent good practice and enhance governance in all companies, the proposal to incorporate the recommendations that will have general applicability within the Combined Code is supported. However, a number of the recommendations are targeted specifically towards banks and financial institutions ("BOFIs") and therefore we would suggest that some aspects could be implemented through a separate section of the Code applying specifically to BOFIs or through the Financial Services Authority on a limited, specified basis.

In relation to the specific issues raised for further consideration, we would refer the FRC to our response to the Walker Review. We also outline some additional comments below.

The Responsibilities of the Chairman and the Non-executive Directors

RBSG agrees that it would be beneficial to provide further clarification of the role, key responsibilities and expected behaviours of the chairman, the senior independent director and the non-executive directors ("NEDs"). In our previous response we suggested that consideration could be given to appending some form of code of conduct for NEDs to the Code, covering a variety of matters including boardroom behaviour; the need to prepare for meetings; the balance between challenging and supporting management; and dealing with conflicts of interest. We continue to be supportive of this approach.

While we have no objection to the FRC providing further guidance on the appropriate time commitment of non-executive directors, in particular the chairman and the senior independent director, we believe that all directors, including NEDs, should dedicate as much time as is required to satisfactorily discharge their duties to the company. It may be appropriate for directors to commit varying amounts of time to a company each year, depending on circumstance, and boards should have the flexibility to determine what is required. As such, we believe that any specified minimum time commitment is to some extent arbitrary.

Board Balance and Composition

While we believe that it would be helpful for the Code to provide additional guidance on the balance of experience and independence upon the board, it should be made clear that "relevant experience" will depend upon the nature and scale of the organisation and should include a broad range of skills and experience, including proven leadership capability in addition to technical knowledge.

RBSG is comfortable with the recommendation that the boards of FTSE 350 companies should comprise at least 50 per cent independent non-executive directors and firmly agrees that board size should be restricted where possible so as to be manageable and facilitate valuable discussion and focus on key issues. This of course requires to be balanced with having a sufficient number of NEDs to serve on board committees, especially banks and other financial institutions which will require a separate board risk committee.

We believe that appointments to the boards of individual companies require an in-depth consideration and examination of the overall balance and composition of the board at the time when the appointment is made. As a result, we would consider that the success of any additional detailed guidance upon succession planning would be limited.

Frequency of Director Re-election

The Walker consultation report places emphasis clearly upon the chairman's responsibility to provide leadership to the board and we do not object to the proposal that the chairman of the board should be subject to annual re-election. It is important however, that this does not detract from the collective responsibility of the full board and, in particular, those directors who are appointed to chair senior committees on the board's behalf.

While we believe that changes to voting, such as binding or advisory votes on specific issues or on the corporate governance statement as a whole, may improve the perception of accountability with shareholders, we do not believe in practice that this will drive any real corporate governance improvements. We would not be in favour of any additional changes to voting requirements in addition to those recommended within the Walker Review.

Board Information, Development and Support

We believe that it would be helpful for the Code to provide more guidance on the support and resources available to boards, and in particular NEDs, in order to enable them to carry out their responsibilities, challenge management opinions effectively and evaluate performance.

We agree with the emphasis in the Walker Report on ensuring that balanced boards are equipped with the right skills, particularly through the use of targeted and structured training tailored for the individual director. Walker recognises that a 'one size fits all' approach to induction and ongoing training is not appropriate and that the emphasis should be on ensuring that boards are balanced and equipped with the right skills and information.

We agree that the chairman should remain responsible for ensuring that directors receive timely and accurate information as this promotes a climate of respect, trust and challenge in the boardroom that enables full contributions to be made. It is also important that chairman's responsibility to provide leadership to the board does not detract from the collective responsibility of the full board.

Board Evaluation

RBSG is in favour of the increased prominence afforded to the use of board evaluation as a tool to assess the proper functioning of the board in the Walker report. We believe that if conducted thoroughly, this exercise can provide valuable insight into a range of cultural, management and procedural issues that otherwise might lie dormant. RBSG supports external evaluation of board performance on a regular basis. We believe this will enhance independence and objectivity and provide additional reassurance to shareholders. However, we believe that boards should also remain open to using different forms of evaluation and regularly reassess how to evaluate their own performance. An increased focus on external evaluation should not be to the detriment of other forms of evaluation, such as structured interviews and 360 degree feedback from fellow directors, which can also play a vital role in promoting best practice.

We consider that the Walker recommendations on disclosure are appropriate.

Risk Management and Internal Control

RBSG is broadly supportive of the recommendations on the governance of risk and the associated disclosures outlined in the Walker report. Given the events that lead to current market conditions and the consensus that additional focus should have been given to risk strategy and risk appetite, we consider that a review of the Turnbull Guidance and how this interacts with the Code, would be beneficial.

Remuneration

RBSG considers it essential that increased governance, in particular remuneration reform, does not adversely impact the UK's ability to compete globally. Regulation and reform of the UK system of corporate governance should not become so onerous that UK companies and, particularly financial institutions, are disadvantaged in the international arena. RBSG has concerns relating to attracting talented personnel and remaining competitive in the global market. We agree that a principal feature of remuneration policies should be to reward long-term value creation, rather than short-term risk-taking, thereby aligning the interests of employees with those of companies and their shareholders. However companies should retain flexibility to determine how this balance is best achieved and to structure reward in such a way that is attractive to quality staff who will assist the recovery of banks and the UK market place.

In addition, there has understandably, been considerable commentary regarding reform of remuneration practice within banks and other financial institutions. As the FRC's second consultation paper highlights, there have been a number of recent reports recommending action in this area. We are concerned that the volume of proposed changes may lead to inconsistencies between proposals issued at a domestic and an international level. Consistency of approach is of key importance and, on a national level we believe that the FSA Code of Practice on Remuneration is the appropriate tool for implementing remuneration reform within banks and other financial institutions.

We believe that the Code should be consistent with the FSA Code of Practice on Remuneration and should be amended to refer to linking reward to risk. It should however, only set out high level principles on remuneration and should not be prescriptive as to how the desired outcomes are to be achieved. This is consistent with the "comply or explain" approach of the Code and individual companies should determine how to implement remuneration policy, referring to the FSA Code of Practice where applicable.

Quality of Disclosure by Companies

While RBSG agrees that there is a need to encourage more informative disclosure on the issues of most importance to investors and to discourage boiler plating and box-ticking, we would not support increased monitoring and enforcement of the "comply or explain" statements of the Code. We believe that such an approach would detract from the basis of the Code as a framework of best practice principles. The concept of enforcement implies that there is a correct and incorrect route to be taken by companies and we would not wish to move to a "comply or else" regime.

Engagement between Boards and Shareholders

RBSG supports engagement with shareholders and we would refer the FRC to our response to the Walker Review.

We hope the comments above are helpful.

Yours sincerely

Miller McLean.