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Financial Reporting Council
8th Floor
125 London Wall
London
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By email: codereview@frc.org.uk

12 September 2023

Dear Code Review Team,

Re: Response to the Financial Reporting Council paper 'Corporate Governance Code Consultation'

3i Group plc ("3i") welcomes the opportunity to comment on the May 2023 consultation issued by the Financial Reporting Council ("FRC") (the "Consultation") on proposed changes to the UK Corporate Governance Code (the "Code"). The FRC's proposed changes to the Code (the 'Revised Code') set out in the Consultation are intended to introduce a number of reforms that the UK Government committed to introduce following the Business, Energy and Industrial Strategy ("BEIS") consultation on: "Restoring trust in audit and corporate governance" (March 2021).

3i is a leading international investor focused on mid-market private equity and infrastructure companies. 3i is listed on the London Stock Exchange and is a constituent of the FTSE 100 Index. Effective corporate governance is fundamental to the way that 3i conducts its business. We have a long-term, responsible approach to investment, creating value through thoughtful origination, disciplined investment and active management of our assets, driving good corporate governance and sustainable growth in our investee companies.

3i has reviewed the Consultation in detail and has already made a number of positive enhancements that are being proposed in it, namely publishing an Audit and Assurance Policy in 2021 and a Resilience Statement in 2022.

3i endorses the response to the Consultation submitted by the GC100 which we believe fully articulates 3i's concerns related to the Revised Code. We believe the FRC should ensure that these proposed changes are proportional, avoid over-regulation and duplication, take a cohesive approach to reform and ensure that the UK remains an investment destination of choice. We have set out below a summary of the key themes we consider are most crucial and warrant further consideration, and response, by the FRC.

Impact on the UK's ability to attract and retain capital

3i, like the GC100, believes that the UK's strong reputation is crucial to its ability to continue to attract and retain capital. 3i considers that the following principles should inform the FRC's work in ensuring that the UK has an effective, proportionate and practical regulatory framework:

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1. *Proportionality*: Proportionality is a key principle in the regulation of companies. As such, it is essential that the principle of proportionality is applied to all matters concerning company regulation. Many GC100 members, including 3i, have concerns about the proportionality of the proposed reforms to the Code, particularly in light of the expected significant increase in costs for their businesses. Many GC100 members have yet to do a full impact analysis on their businesses, but those who have carried out a costs analysis have suggested that there will be significant one-off and ongoing costs for their businesses.
2. *Over-regulation*: Imposing additional obligations over subject matter which is already covered by other regulation leads to over regulation and uncertainty/confusion among those companies and individual directors being regulated. Regulation must not be duplicative. The FRC have acknowledged this and have committed to avoiding duplication with other requirements. Despite this commitment, GC100 notes that there are several instances of duplication in the Revised Code, most notably duplication with the FCA's Listing Rules. Duplication and additional, unnecessary complexity waste management time and dilute returns to investors through increased costs and from delivering returns to investors.
3. *UK as an investment destination of choice*: Increasing the compliance burden (and cost) for companies may affect the UK's competitiveness as a preferred destination for corporate and capital market activity. GC100 considers that imposing significant and disproportionate new rules on companies and directors through the Revised Code is at odds with the Government's ambition, and the work which the FCA is currently undertaking, to make London a more attractive listing venue. A number of high profile companies are opting to list their shares in what are perceived to be more attractive capital markets, thereby questioning the UK's attractiveness as a listing destination, even before the proposed reforms are implemented.

Impact on boards of directors

GC100 members, including 3i, are concerned about the cumulative impact of new obligations on directors of the boards of UK listed companies. These boards are finding it increasingly challenging to attract the talent, quality and diversity of background and experience desired to enable effective decision-making. This is contrary to what the Government and the FRC wish to see. There are many practical instances of quality and diverse candidates deciding against joining a listed company board, particularly where they are being recruited to join the audit and risk committees, over concerns of over-regulation and incurring potentially unlimited personal liability.

The cumulative impact of new obligations on companies and their directors in turn will create additional costs as companies will need to provide more internal support (and also external assurance) to allow directors to meet those obligations. As a general comment, and with the exception of some of the changes regarding remuneration reporting, the Revised Code changes are additive in nature. The updates to the Code which GC100 expected to see as a result of the Government's response to Restoring Trust in Audit and Corporate Governance appear to be more onerous than the Government intended, and GC100 notes that there are many changes which are not connected to the Government's reforms.

The impact on board committees is also significant. With the increasing responsibilities placed on them, as set out in the Revised Code, non-executive directors will be required to do even more and to commit more time than their traditional supervisory role suggests. We believe that they will also be more exposed to the risk of regulatory sanctions. This could have an adverse impact on the effectiveness of boards and the companies they serve. For example: (i) non-executive directors may be forced to reduce the number of directorships (and other appointments) they hold, thus depriving companies (and other bodies) of crucial cross fertilisation of skills and experience; and (ii) the increased exposure could have a negative effect on high quality/experienced candidates for non-executive positions thereby reducing an already small pool of talent and making it more likely that companies would be forced to engage less experienced candidates.

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Whilst we support changes that lead to an improvement in the quality of reporting, provided that they are proportionate and do not create excessive additional reporting obligations, we are concerned that many of the changes are additions to the Revised Code which add complication, rather than it being a code of practice that is easy to follow and interpret.

We are grateful for the opportunity to comment on the proposed changes and would welcome the opportunity to discuss these with you further.

Yours sincerely

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