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Dear Sirs

UK Corporate Governance consultation

Grant Thornton UK LLP (Grant Thornton) welcomes the opportunity to comment on the FRC's Corporate Governance Code Consultation ("the Consultation").

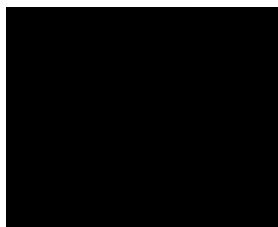
As we have noted in our responses to previous consultations on the future of audit and the auditing profession, Grant Thornton strongly believes that the issue of declining trust in the UK audit profession needs to be addressed and reversed.

As such, we appreciate the set of proposals outlined in this Consultation by the FRC in response to the government invitation to strengthen the UK Corporate Governance Code ("Code") in specific areas.

Our overarching comment is that, notwithstanding, government direction to implement internal control improvements in the Code will the incorporation of criteria relating to internal controls deliver the improvements envisaged. In fact, we are concerned that incorporating these criteria into the Code will provide users with the perspective of a fundamental improvement whereas the current proposals may lead to inconsistencies between companies and result in an expectation gap.

Furthermore, we note from our review and the roundtables that the scope of the Code continues to increase as more demands are placed on UK corporates. As such, there is a question as to whether certain requirements would be better placed in legislation and other elements of the Code could be scaled back or removed. Allied to this concern is the risk that company reporting in relation to the Code could be too voluminous and boiler plate.

We would strongly recommend a post implementation review and continued efforts by the FRC e.g. through the Lab to develop material highlighting good practice and providing information to identify Code criteria which are not delivering user valuable information and can be considered for removal.



Enc. Appendix A, Responses to Restoring trust in audit and corporate governance: Consultation on the government's proposals

Restoring trust in audit and corporate governance: Consultation on the government's proposals

Section 1 - Board leadership and company purpose

Q1: Do you agree that the changes to Principle D in Section 1 of the Code will deliver more outcomes-based reporting?

Yes.

The proposed amendments provide clarity and direction for the company's Board in terms of their report on governance practices and how the Code has been applied.

To be truly effective, further analysis and reporting by the FRC, either through the Lab or Corporate Reporting Review team, to identify good and bad practice once implemented would be beneficial to both preparers and auditors in terms of the respective responsibilities to comply the Code and to report on said compliance with the Code (in accordance with Listing Rule 9.8.10R(2)).

To be most effective, some examples and/or granularity could be provided in the associated guidance that the FRC are planning to produce.

Q2: Do you think the board should report on the company's climate ambitions and transition planning, in the context of its strategy, as well as the surrounding governance?

Yes

There are three key elements to consider here.

Firstly, we need to consider the benefit to the company and its users. Given the pressure and development of ESG related standards internationally.

Secondly, consistency with international developments should be considered. Mandatory ESG reporting and associated assurance is under development in the EU (and to a lesser extent the USA) and therefore there is a question as to whether this requirement goes far enough. Further, the compliance with the Code will not be subject to any substantive assurance work.

Thirdly, we need to consider the quality of the subsequent reporting and how this impacts the usability of the annual report. The danger with a broad requirement in the Code may result in boiler plate reporting. Furthermore, the introduction of any new requirement will add volume to the annual report. We would challenge the FRC to consider whether certain other requirements (in the Code or elsewhere) which are of less relevance could be removed from those requirements in order to ensure the annual report does not become bloated.

Q3: Do you have any comments on the other changes proposed to Section 1?

No

Section 2 - Division on responsibilities

Q4: Do you agree with the proposed change to Code Principle K (in Section 3 of the Code), which makes the issue of significant external commitments an explicit part of board performance reviews?

Yes

However, there is a concern that reporting on outcomes around a director's significant external commitments will translate into boilerplate reporting with little substance. Currently reporting on the process and outcomes/findings of board performance reviews is strong, with 81%* providing good or details explanations, although this does not cover director's time commitments/dedication to the Board. Additionally, in our current year's 2023** preliminary data, not one 20% vote against a resolution related to issues of over-boarding.

That said, recognizing that a director's ability and time availability to discharge their responsibilities effectively is key, this should be an explicit part of their annual performance review, as this can impact their preparedness and therefore the opportunity to 'hit the ground running' each time and contribute and challenge. In our view, we would value, along with investors and other stakeholders who assess the board's effectiveness, the opportunity to consider the narratives around this ourselves.

Forward-looking guidance (i.e., how to test this, on what basis - group or individual, how to disclose findings and potential ways to integrate into BPRs) would be valuable. As would considerations/factors to evaluate in assessing, i.e., how time commitments/workload allow a director to do many roles, why not all roles they hold are as high effort/significant an appointment, the valued experience it brings, how it balances in the year etc.

Given that current reporting on Board performance reviews findings/outcomes is quite succinct, we do not perceive, as some others have expressed, a risk that there will be substantial increases in page numbers because of this change.

Q5: Do you agree with the proposed change to Code Provision 15, which is designed to encourage greater transparency on directors' commitments to other organisations?

Broadly speaking, yes, as long as the reporting is not boilerplate and does not involve just disclosing a policy.

This disclosure should hopefully encourage greater transparency and more introspection as a Board when documenting these, as well as giving investors and stakeholders assurance that this is something Board's give reasoned thought to periodically.

Some initial uncertainties arise around logistics: will each director have to put forward their assessment to be determined by the Chair/Board it is sufficient? How will subjective/objective will the disclosures be? Whichever way it is achieved, explanations per director should be insightful and address the required purpose behind the revision, which is: why/how a director perceives they will have time to do this role effectively along with every other role/commitment they have.

We would propose a potential re-articulation of Provision 15, to move away from setting out/listing board and committee roles and the potential number of commitments each year, to focusing in on explanations specifically as to why they have time to do/not do this role effectively and with reference to their other commitments within this. Otherwise, this could result in boilerplate reporting which places a bigger administrative burden on CoSecs, combined with more pages of reporting that stakeholders will either 'gloss' over, or potentially focus in on and drive extreme shareholder activism against certain directors, rather than effective stewardship. If a company is intent on disclosing a policy along side these disclosures, for transparency purposes, this could be cross-referenced as a 'living document' on the company's website, or only reproduced in brief (i.e., summary of 2-3 lines) in the annual report prefacing the more meaningful disclosures. However, the latter may be preferable, and this could be made explicit in Guidance to avoid any confusion.

Section 3 - Composition, succession and evaluation

Diversity and inclusion

Q6: Do you consider that the proposals outlined effectively strengthen and support existing regulations in this area, without introducing duplication?

Yes, given the amount of existing fragmented, yet complimentary initiatives and regulation and companies still working to alignment with various mandatory requirements and voluntary initiatives (30%* full compliance with FCA statement, 44%** full or partial compliance with the FCA's extended diversity reporting, only 7%* of Chairs are female and 64%*of Boards meet the Parker Review target), the proposals outlined strengthen and support existing regulations, creating consistency while avoiding duplication. The FCA's reporting requirements are as extensive as these requirements probably should be and extend beyond just how much gender and ethnic diversity there in on the Board, but also are they in substantial roles too? Integrating these should solidify the footing of these regulations/initiatives as best practice and challenge Boards to think about these as material to succession planning aligned with strategy. This continues to be a challenge for many Boards, with 66%* providing poor to average insight into Board succession planning, a factor of which is influenced not only by strategy, skills and experience, but also diversity.

Q7: Do you support the changes to Principle I moving away from a list of diversity characteristics to the proposed approach which aims to capture wider characteristics of diversity?

Yes, however with the caveat that the way this is drafted does not achieve the purpose of putting protected and non-protected characteristics on equal footing. The drafting should either list all protected and non-protected characteristics or list not at all – to list some non-protected characteristics as it is currently drafted could be confusing as it is not helpful in clarifying non-protected and protected and could be used as a cop-out of wider compliance. The aim should be to reinforce the approach that some of the bests are already taking, including, 78%* of those who do provide good detail on their diversity policy, mention three or more broader protected and non-protected characteristics, and push others who do not provide any/much insight, which sits at approx. a third, 33%* to broaden out to wider characteristics of diversity, by leaving the 'list' more open through not listing at all, or listing all of them. The focus should be on the combined composition of the Board in its entirety and either listing none or listing all is the way to achieve this. There could also be a potential for cross-referencing by the FRC to where to find these characteristics and to do so with the definition of diversity the FRC will be expecting stakeholders to understand. Importantly, for those already doing this, there will be little change, but for those who are less progressive in their disclosures, it may reinforce the shift which is taking place in their peers and the market. Below is a table reproduced from our research which demonstrates this shift:

Diversity characteristics	2022 (%)	2019 (%)
Nationality	30	23
Culture	23	42
Ethnicity	86	79
Race	31	37
Skills and experience	76	82
Social mobility	48	42
Age	37	37
Cognitive and personal strengths	28	36
Disability	25	0.4
LGBTQ+ (sexual orientation and gender identity)	26	0.4
Religion or belief	16	0.4
Other	13	16

Q8: Do you support the changes to Provision 24 and do they offer a transparent approach to reporting on succession planning and senior appointments?

Yes, as the drafting positions the work of the Board in this area to be far more proactive, and therefore it should drive better quality reporting and outcomes. There are few organisations, in fact only 34%* give good or detailed insight into Board succession planning, 21%* into the development of executive and senior management pipelines, and while 67%* of companies detailed their D&I policy, its objectives and linkage to strategy, implementation, and progress, it was not linked to succession planning. This drafting is much clearer on what we have always perceived should be as part of the active work of the Board and the Nomination Committee. Additionally, in explicitly drawing linkages between succession planning, and diversity, in order to deliver the company's strategy, including how a diverse pipeline fits into this, it instantly reframes this vital connection. Within this, shifting the focus to the effectiveness of the diversity and inclusion policy, including progress towards company objectives and established initiatives, should remove a large amount of boilerplate reporting which often focuses on only reproducing the policy but not considering effectiveness/progress. As noted above, 67% now do outline the policy and also consider progress, a substantial increase of 20%* on the previous year, however this has been hard won for the FRC and slow progress up till now.

This clarity in Provision 24 should result in much more outcomes focused and transparent reporting. Guidance would be valued as to what Boards/Committees should consider in their work, i.e. the role and involvement of HR in the organisations, use of targets for succession planning and significant appointments and best practice examples as disclosed/highlighted, i.e. training, exposure, roles on sub-boards, programmes, targets etc.

Board performance reviews

Q9: Do you support the proposed adoption of the CGI recommendations as set out above, and are there particular areas you would like to see covered in guidance in addition to those set out by CGI?

Yes, we are supportive of the proposed CGI recommendations as set out above, recognizing that a change of name to Board Performance Review (BPR) instead of Board Evaluation underlines the more forward-looking/continuous improvement nature of these reviews. If this could be defined please, to distinguish from the more general uses of the word evaluation of performance and effectiveness where utilized.

No issues with the changes from consider to commission in Provision 21.

No other areas as far as we are aware that we would like to see in Guidance, given we are and were supportive of the CGI's original proposals, findings and draft guidance upon review and issue. We consider the Guidance to be extensive, and even the 81% who describe processes and outcomes well and 8% who describe outcomes in detail will still be challenged to be more transparent and proactive by many areas of this Guidance, much of which we believe will add value to disclosures and the Board's proactivity around its own development. We would like to express particular support for the 2 areas below:

- Relationships/independence, as although 99%* (41% of the overall data set undertook external reviews)* disclose the name of the external reviewer, anecdotally, as a board performance reviewer ourselves, an incumbent or a long-held, clearly non-independent relationship, has led to us not being selected, but these connections are subsequently not disclosed in reporting and while not explicit, it is often implied that it is because a Board/Chair is not as receptive/open to improvement or receiving a review that would encourage changing the way things are done
- Disclosures around outcomes and actions - generally we find good disclosures around outcomes (as mentioned above), but not around actions following the outcomes, up to only 8%*, and echoing the FRC's view, we agree that this may provide an increased amount of credibility and accountability to both the providers of BPRs and to the organisations Board, otherwise BPRs can become very insular-looking and negatively reinforce less than optimal Board performance.

Section 4 – Audit, risk and internal control

Board performance reviews

Q10: Do you agree that all Code companies should prepare an Audit and Assurance Policy, on a 'comply or explain' basis?

Yes, we do on the basis that consistency on this will make the reporting landscape more transparent and comparable for stakeholders to navigate, and that in this respect, it is also better for giving the listed market a competitive advantage ahead of some other listing regimes, with the best of flexibility offered by 'comply or explain' for those that may take some time to develop and mature their approach. This would also smooth the transition that any listed companies who are not PIEs, may face when/if they become PIEs.

Furthermore, as these are amongst the largest companies, there should be a high level of reliability of data/statements produced and put out there. While many expressed concerns that although there is 'comply or explain', they would not want to do partial compliance if it was out of step with their peers/the market, but we anecdotally have found in our annual review of governance that there are always companies who are satisfied with being average or out of step. That said, this would not be such a substantial change for listed companies since this is already the current direction of travel, with 46%* obtaining some form of external assurance of their non-financial data – limited or reasonable, and 5%* obtained reasonable external assurance on non-financial data, with both levels covering a range of data points from GHG, TCFD, Health & Safety, Diversity, Supply Chain, Human Rights, Social Mobility, Sustainability strategy & KPIs and others.*

Furthermore, while we recognise that this may be substantial work for many organisations, there is already an expectation that they had largely effective processes, controls and systems in place, supporting this direction of travel. Our preliminary data indicates that 30%** of companies are in between being aware of the AAP and other audit reform, and having already published an initial AAP with 10%** either in progress or already published, while 21%** make no mention of the AAP and other audit reforms. There is some concern that although the role of the Audit chair is already substantial, the need to engage with shareholders where they may have never done so before, may be quite challenging, however as all NEDs are generally encouraged to engage with shareholders and stakeholders, we view this as largely positive if engagement is limited to the scope of the Audit Committee's role and the AAP, perhaps at timed periods during the year as the Remuneration Committee Chair often does regarding the remuneration policy review – current engagement by AuditCo Chairs with shareholders is 4%*.

*Grant Thornton Annual Corporate Governance Review 2022

**Preliminary data for the Grant Thornton Annual Corporate Governance Review 2023

Audit Committees and the External Audit: Minimum Standard

Q11: Do you agree that amending Provisions 25 and 26 and referring Code companies to the Minimum Standard for Audit Committees is an effective way of removing duplication?

Yes

Reducing unnecessary duplication in related documents is beneficial. This approach also allows further context and guidance to be included in documents which are referred to in the UK Corporate Governance Code.

This interconnectivity enhances the awareness of both documents, which is particularly beneficial for the Minimum Standard for Audit Committees for which there may be less awareness among certain users within the eco system.

Sustainability reporting

Q12: Do you agree that the remit of audit committees should be expanded to include narrative reporting, including sustainability reporting, and where appropriate ESG metrics, where such matters are not reserved for the board?

Yes

For many organisations, sustainability or ESG is already a board-level issue and a key part of its strategy, but there is a rapidly changing focus and scrutiny from investors, other providers of finance, regulators and other users of reported information over the quality and clarity of narrative reporting, including sustainability and ESG reporting and the associated assurance.

ESG and sustainability information is inherently more challenging to measure than financial information and often doesn't have a mature control environment built around it. Meaningful assurance increases credibility and confidence.

Audit committees or those charged with governance have a pivotal role in holding the organisation to account and to produce reporting which is fair, balanced and understandable. They need to understand the ESG, sustainability and non-financial information (metrics and narrative) that their organisations are reporting today and what they are likely to be reporting in the future. They need to form an understanding of the possible assurance approaches and the role of independent external assurance. Consideration needs to be given to risk appetite and the shifting focus of users of reporting towards more scrutiny over the non-financial aspects. Understanding what is being reported is a good first step, followed by an appreciation of the type of assurance that might be possible for each element. This should consider the level of assurance as well as the scope. The destination might be for reasonable assurance over a broad range of metrics and narrative but there will need to be a plan developed as to how to get there and what the intermediary steps should be. Sustainability, ESG and non-financial assurance needs to be part of a wider Audit and Assurance Policy.

Risk Management and Internal controls

Risk and Internal Controls Guidance

Q13: Do you agree that the proposed amendments to the Code strike the right balance in terms of strengthening risk management and internal controls systems in a proportionate way?

No

We submitted to BEIS in response to their Audit and Governance reform consultation that any proposed changes for directors to take on more explicit responsibilities for internal controls should follow international developments. The proposed requirements are aimed at avoiding disproportionate burdens and allowing flexibility for companies to tailor their arrangements to their own circumstances. While the ambition here is understandable, the proposed approach risks:

- Creating an expectation gap for users of the annual report;
- Inconsistency of arrangements between UK and international peers; and
- An inability to meaningfully compare the arrangements between companies defined as public interest entities.

Q14: Should the board's declaration be based on continuous monitoring throughout the reporting period up to the date of the annual report, or should it be based on the date of the balance sheet?

The Board's declaration should be based on continuing monitoring throughout the period is conceptually more appropriate and valuable to the user. However, given the ambition to have a less onerous and circumstance-based approach for companies it would appear to be unnecessarily onerous. Accordingly, it would be more appropriate for the FRC to require a declaration covering the date of the balance sheet.

This latter approach is also consistent with the Sarbanes Oxley requirements for an opinion 'as of' the balance sheet date.

Q15: Where controls are referenced in the Code, should 'financial' be changed to 'reporting' to capture controls on narrative as well as financial reporting, or should reporting be limited to controls over financial reporting?

There are two conflicting determinants impacting on this decision.

Firstly, it is more valuable for the users of financial statements for controls to cover 'reporting' arrangements covering narrative reporting e.g. sustainability. These areas are being included in the annual report to satisfy stakeholder needs and to reflect new demands from companies.

Conversely, the expansion from financial to reporting controls will increase the burden on companies. There is also a secondary concern that the ability for companies to tailor their arrangements may limit the value provided for stakeholders and/or make it harder to assess the difference in arrangements that can be taken from companies' declarations.

There is also a risk that companies do not have the same level of controls over non-financial reporting as they do over the financial statements. Accordingly, it may be difficult to apply the same arrangements over financial and non-financial controls.

One solution may be to delay the increase in scope to 'reporting' controls after a post implementation review to assess the effectiveness of changes impacting on 'financial' controls only. Alternatively, the proposed change could be implemented with a post implementation

Q16: To what extent should the guidance set out examples of methodologies or frameworks for the review of the effectiveness of risk management and internal controls systems?

The more flexible approaches value would be significantly enhanced if a clear and consistent methodology/framework is developed by the FRC. This would provide much needed consistency in company arrangements and related reporting in annual reports.

Firstly, management would be able to make less detailed/boilerplate reporting in terms of their arrangements if they could refer to a FRC methodology framework i.e. they could explain how they applied this, rather than explain their own methodology in detail. Secondly, users would be able to better assess different arrangements if they could assess how the same FRC methodology/framework had been applied.

Q17: Do you have any proposals regarding the definitional issues, e.g. what constitutes an effective risk management and internal controls system or a material weakness?

The FRC should seek alignment with other relevant standards when establishing definitions. Sarbanes Oxley and the International Standards on Auditing would provide the most relevant basis to consider for consistency.

Q18: Are there any other areas in relation to risk management and internal controls which you would like to see covered in guidance?

The following areas would be beneficial to cover:

- Control arrangements

The ISAs provide requirements for auditors to assess the design, implementation and operational effectiveness of internal controls. It would be useful to understand whether the FRC expects companies to address all these criteria and, if not, whether clear disclosure as to which of these elements the company has arrangements relating to internal controls would be useful.

- Dealing with control failures

Guidance in relation to the impact of control failures and the conclusion would be beneficial. For example, would the availability of compensating controls which are effective mitigate the need to disclose control failures.

- Interaction with Auditing Standards

Firstly, it is important to understand how auditors reporting of control deficiencies, both significant and non-significant, interact with the proposals and subsequent guidance developed by the FRC. Would the existence of significant control deficiencies result in an inability from management to make a statement that controls were effective throughout the period in accordance with the company's arrangements for controls. And if not, would this be appropriate if the control arrangements of the company were not as onerous as the requirements of the auditing standards.

Secondly, the interaction between reporting requirements relevant to audit opinions in the UK will need to be considered. There are a number of requirements relating to this:

- Listing rule requirement to review the part of the Corporate Governance Statement relating to compliance with the provisions of the UK Corporate Governance;
- ISA 720 requirement to consider whether the Corporate Governance Statement is materially consistent with the financial statements or the auditor's knowledge obtained during the audit. Further to this broad requirement covering other information, there is a specific requirement relating to internal controls for companies adopting the UK Corporate Governance Code; and
- The auditor's review as to whether the annual report and financial statements are fair, balanced and understandable may also provide challenges where there are significant variances in how companies apply the internal control requirements in the UK Corporate Governance Code.

Going concern

Q19: Do you agree that current Provision 30, which requires companies to state whether they are adopting a going concern basis of accounting, should be retained to keep this reporting together with reporting on prospects in the next Provision, and to achieve consistency across the Code for all companies (not just PIEs)?

Yes

We agree with the proposal to retain current provision 30 to enable consistent governance reporting by all entities that report under the Code irrespective of whether they meet the definition of a PIE.

Resilience Statement

Q20: Do you agree that all Code companies should continue to report on their future prospects?

Yes

We support the FRC's proposal to require all Code companies to provide disclosure about their prospects for the reasons outlined in the consultation.

Q21: Do you agree that the proposed revisions to the Code provide sufficient flexibility for non-PIE Code companies to report on their future prospects?

Yes

We agree that the requirements of Code Provision 32 provides sufficient flexibility to non-PIE entities to provide information about their future prospects in a manner that is proportionate to them applying the 'comply or explain' principle.

Section 5 - Remuneration

Changes to strengthen links to overall corporate performance

Q22: Do the proposed revisions strengthen the links between remuneration policy and corporate performance?

Not responded to

Malus and clawback

Q23: Do you agree that the proposed reporting changes around malus and clawback will result in an improvement in transparency?

Yes

We agree that the clarity about the information that should be disclosed in relation to malus and clawback provisions in the context of executive pay should result in greater transparency of arrangements that a company has in place and the extent to which the arrangements have been used.

Changes to improve the quality of reporting

Q24: Do you agree with the proposed changes to Provisions 40 and 41?

Yes

We are supportive of the proposed changes to Provisions 40 and 41, and in our view should lead to more insightful disclosure rather than some of the boilerplate disclosure that some entities provide under the existing requirements.

Q25: Should the reference to pay gaps and pay ratios be removed, or strengthened?

Reference to pay gaps should be strengthened

We are not supportive of the removal of discussion of pay gaps although acknowledge that such information about this can be found elsewhere. However, in view of the importance of addressing workforce pay gaps, the remuneration committee should be asked to acknowledge their awareness of them and what steps the entity is taking to resolve such differences and over what timeframe the perceived inequality be addressed. The Remuneration Committee should explain how they were satisfied that the approach to be taken is fair and reasonable for all parties concerned.

In the context of the pay gap between executive directors and the wider workforce, the Remuneration Committee should disclose the factors that it considered in assessing that the pay gap was at an appropriate level for the company.

Other matters for consideration

Artificial intelligence

Q26: Are there any areas of the Code which you consider require amendment or additional guidance, in support of the Government's White Paper on artificial intelligence?

Not responded to