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Dear Sir

Combined Code Consultation 2009

Thank you for the opportunity to provide our views on the content of the Combined Code, the way in which it has been applied by companies and how it has been enforced by investors through the “comply or explain” mechanism. We are concerned that, in the light of the economic crisis, there may be considerable pressure to change the content of the Combined Code and to do so very quickly. Our response below indicates that this would be inappropriate.

PricewaterhouseCoopers has, in past years, responded to all of the FRC’s consultations concerning the Combined Code. In our responses, we have provided comments and opinions on proposed changes by the FRC and also volunteered suggestions of changes that in our view might lead to improvements in the governance framework. Our perspectives are drawn from review of disclosures in annual reports, and from direct engagement with boards and audit committees in a broad range of companies, where we provide services either as auditors, or in other capacities. We also run a programme of professional development for non-executive directors, and we learn much from the exchange of views that takes place at our events and workshops, that are often focussed on matters specifically covered by the Combined Code.

We are pleased to note that the current call for evidence is just one element of the FRC’s evidence gathering phase of the review. We strongly support the FRC meeting with directors and investors to get first hand views of how well the Code is perceived to be

working, along with the “comply or explain” enforcement mechanism. We also note that the FRC is intending to analyse existing and new research.

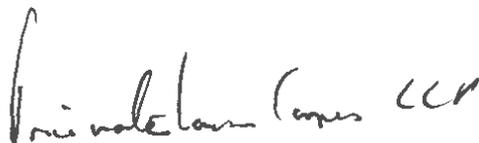
Whilst there will be considerable pressure as a result of this call for evidence to make revisions to the Code, our belief is that the justification for any change should be based on more substantive evidence than the responses likely to be generated by this consultation alone. The responses will clearly be of interest, in providing a range of options that the FRC may wish to consider, but they should be viewed in the context that they are likely to be anecdotal, based on individuals’ specific experiences and prejudices. Clearly, the whole system is not broken, so the FRC would be well advised to look at sectors or businesses which have survived, or even thrived in the current climate, and consider what has worked well.

Any change needs to be thoughtful, proportionate and, most importantly, supported by research based evidence. Once the results of the research are available, the next steps for the FRC will be to establish whether there are weaknesses in the framework provided by the Combined Code, or whether the issues that led to the economic crisis were as a result of poor implementation of the framework by a wide range of businesses, or perhaps just in a particular sector or sectors. It will only be possible to make credible proposals for changes to the Code, if appropriate, at that point in time.

Without undermining or seeking to circumvent the need for a full and independent evidence gathering exercise, our contact with non-executive directors, as mentioned above, enables us periodically to collate views on various matters. We are currently undertaking an exercise to seek their feedback on a number of questions around potential changes to corporate governance. We would be delighted to provide you with a summary of this feedback in, say, two months time, if this would be helpful.

We note in the Appendix some high level views in relation to the questions in your consultation document. Should you have any questions in relation to our response, please do not hesitate to contact either Peter Wyman or Margaret Cassidy at the address above.

Yours faithfully



APPENDIX

Which parts of the Code have worked well? Do any of them need further reinforcement?

Overall, we believe the Combined Code is working well and is not a root cause of the economic crisis that we are facing today. We believe that, regardless of the quality of the Code in place, it is the culture, the tone at the top and the personal behaviours of directors which have led to many of the outcomes in the crisis. Commissioning research in this area, and also exploring the effectiveness of the Code's provisions on board balance, may be useful. It would be interesting to consider an alternative model, in which a proportion of the non-executive directors may not meet the independence criteria, but will have sufficient industry experience, while others would form the cadre of independent non-executives. This would strengthen the level of expertise of the non executive directors, particularly if applied in more complicated environments, such as the banking and financial sector, while at the same time, preserving the broad experience from unrelated sectors that the independent non-executive directors bring to the board.

As noted above, personal behaviour plays a key part in the optimal functioning of a board, and we would suggest that research is carried out on what makes a board effective. Once the outcome is known, further consideration can be given to whether any related provisions in the Code need strengthening.

Have any parts of the Code inadvertently reduced the effectiveness of the board?

The Code contains sound material around boards and directors committing appropriate time to their responsibilities, but an interesting area of research would be where boards and directors spend most of their time, and whether it tends more towards compliance related activity rather than the business driven agenda.

A number of commentators have said that remuneration policies should be linked to sustainable long term shareholder value and while Section B of the Code contains good principles in relation to remuneration, it could be worth considering as part of the research work whether this Section might be expanded and strengthened.

Are there any aspects of good governance practice not currently addressed by the Code or its related guidance that should be?

Anecdotal evidence indicates that some boards may not have fully understood the risks companies were facing. We believe that a fruitful area of research may be around boards' perception of their responsibilities in relation to enterprise risk management. For example, some of the recent guidance issued by FRC on going concern highlighted the need to contemplate what might seem to be highly unlikely risks when the directors are making their assessment. Such risks can sometimes have a devastating impact if they materialise. Research into how boards typically approach risk assessment, including whether they

receive adequate information and also whether they communicate appropriately with investors about risk, would be worthwhile.

Is the “comply or explain” mechanism operating effectively and, if not, how might its operation be improved?

We believe that the Combined Code should continue to be a principles-based Code and that the “comply or explain” mechanism works provided there is active and challenging engagement from the investors. In practice, there are some real challenges on how this engagement would work effectively and so this whole area would be worthwhile researching in detail.