

**September 2020**

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## **Governance changes at the FRC**

**Consultation on consequential amendments to FRC Procedures**



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Registered in England number 2486368. Registered Office:

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## General information

1. The Financial Reporting Council (**FRC**) has made various changes to its governance structure which require consequential amendments to the Conduct Committee's Operating Procedures and various Enforcement Procedures. Through this consultation, the FRC seeks feedback and comment on these proposed governance-related consequential amendments.
2. The FRC is separately carrying out a substantive review of its Audit Enforcement Procedure, following its implementation on 16 June 2016 and sufficient time in the period since for a number of cases to have been investigated and pursued under that procedure. The FRC proposes consulting on proposed changes arising from that substantive review later this year.
3. The FRC furthermore engaged in discussions with the CCAB bodies in relation to the efficacy and appropriate procedure and scope of the Accountancy Scheme before Sir John Kingman's independent review undertaken in 2018 (**Review**). Those discussions were paused during the Review and consideration by the FRC in partnership with the Government of how best to implement Sir John's recommendations. The FRC has indicated to the participants of both the Accountancy and Actuarial Schemes (**Schemes**) that it welcomes re-opening such discussions and would anticipate consultation on any changes which may be recommended to those Schemes arising from such discussions and review in due course.

## Introduction

4. On 18 December 2018, Sir John Kingman published his Independent Review of the Financial Reporting Council<sup>1</sup> and made 83 recommendations (**Review and Recommendations**). The FRC welcomed the Recommendations and the Government's proposal, as set out in its initial consultation published on 11 March 2019, to proceed at pace with all the reforms that could immediately be delivered, so that the benefits could be obtained without delay.
5. Amongst governance recommendations, the Review recommended that the Government, working with the chair of the new board, should review the existing FRC committee and panel structure with a view to achieving a significant simplification of the architecture in line with the principles set out in the Review (**Recommendation 13**).
6. The Review also recommended that the board of the new regulator should exercise significantly stronger ownership and oversight of the investigation and enforcement functions...[and]... internal rules and procedures [should] enable the board to... take decisions itself on whether to launch audit investigations in cases it regards as of particular significance or public interest. The Review noted that it did not anticipate the board taking decisions in many such cases, but that it should maintain an ability to do so (**Recommendation 14**).

## Governance changes

7. Following Simon Dingemans taking up his appointment as Chair on 7 October 2019, the review of the FRC's sub-board governance structure and the Board's decision making in relation to enforcement matters was undertaken and adopted by the FRC Board. The key

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/767387/frc-independent-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/767387/frc-independent-review-final-report.pdf)

drivers behind the resulting governance structure changes are to enhance the effectiveness, speed and responsiveness of the organisation; shift the organisation to an 'Executive Led' approach; reduce layers of management and Committee review and create clearer accountability; enhance transparency; align the governance structure with a new FRC business model and management structure; and refocus Board time to effectively challenge and hold the Executive to account.

8. The governance changes approved by the Board to take effect from 1 January 2021 therefore include the following:
  - 8.1. The Board will be supported by five Committees of the Board (each formed only of Board Members) as follows:
    - **Supervision Committee** (a new committee to oversee corporate reporting, audit monitoring, AFMAS and professional oversight activity which until now been charged to the Conduct Committee);
    - **Conduct Committee** (now focussing predominantly on Enforcement matters - as well as exercising the powers expressly prescribed to it under ss457-459 Companies Act, until such time as that prescription may be amended in secondary legislation to the new Supervision Committee);
    - **Codes & Standards Committee**;
    - **Audit & Risk Committee**; and
    - **People Committee** (covering what was previously a separate Nominations and Remuneration Committee).
  - 8.2. The sub-Committee structure will be removed and replaced with a broad Advisory Panel that the Executive and Board Committees can call upon for specialist advice and input on a targeted basis. The following sub-committee bodies will be removed:
    - Audit, Accounting and Actuarial (advisory) Councils;
    - Case Management Committee;
    - Corporate Reporting Review Committee;
    - Audit Quality Review Committee; and
    - Financial Reporting Review Panel.
  - 8.3. Senior Advisors will be appointed for a set number of days a month and will sit as standing advisors to the three regulatory Board Committees (Codes & Standards, Conduct and Supervision) and be available to advise the executive (adopting a model similar to that at the FCA).
  - 8.4. The decision to open an investigation under the Audit Enforcement Procedure and the Accountancy and Actuarial Schemes will now be a decision of the Board, albeit with a scheme of delegation to permit the Conduct Committee to continue to open investigations except where the case is of particular significance or public interest. Guidance will be provided on the circumstances in which investigation decisions should be retained by the Board. Appropriate skills and diversity of experience is being factored into the Board composition and succession planning.

## **Proposed consequential amendments to existing regulatory procedures**

9. The above governance changes require minor consequential amendments to a number of the FRC's regulatory procedures. As these include procedures which are usually put to public consultation when changes are proposed, given the reliance of our regulated

constituency on those procedures as consulted upon and published from time to time, we invite public views on the consequential amendments to those procedures as follows:

- 9.1. The retention by the Board of the decision to open an investigation under the AEP and Schemes and removal of the Case Management Committee carries minor consequential amendments to the AEP and Schemes (**Appendices 1-3**). We consider that the status quo of the Conduct Committee making the decision to investigate (and consequential publication decisions) will remain unchanged in the majority of cases, due to the intended delegation from the Board to the Conduct Committee to continue to make these decisions. In cases where the Board retains the decision to open the investigation, appropriate skills and diversity is being factored into the Board composition and succession planning, together with appropriate legal support. No prejudice or cost to respondents to these procedures is anticipated by the proposed changes;
- 9.2. The removal of the Corporate Reporting Review Committee and Financial Reporting Review Panel carries minor consequential amendments to the Conduct Committee Operating Procedures (**Appendix 4**). Their review stage has been substituted with a review stage at senior executive level with appropriate equivalent non-executive support drawn from the new advisory panel, senior advisors and the newly established Supervision Committee until such time as appropriate legislation may transfer the Conduct Committee's role in relation to Corporate Reporting Review to the Supervision Committee. No prejudice or cost to companies under review by the FRC's Corporate Reporting Review function is anticipated by the proposed change;
- 9.3. The removal of the Audit Quality Review Committee carries minor consequential amendments to the Audit Regulatory Sanctions Procedure and Crown Dependency Regulatory Sanctions Procedure (**Appendices 5 & 6**). Its role has been substituted at appropriate executive level with advisory panel support available. No prejudice or cost to firms which are respondents to these procedures is anticipated.
- 9.4. The Auditor General Disciplinary Procedure Rules carry minor amendments from the previous 2012 version as part of the suite of governance-related enforcement procedure amendments. (**Appendix 7**). The Case Management Committee's role as the Investigations Committee for the purposes of this procedure (as reflected in the Case Management Committee's Terms of Reference) is intended to be replaced by the continuing Enforcement Committee.
- 9.5. Otherwise minor clarificatory amendments have been made (for example to reflect the current statutory and regulatory framework) to the Operating Procedures and Accountancy Scheme.

## **Consultation question(s)**

1. Do you have or foresee any objection to any of the proposed consequential amendments on the grounds of fairness or due process, or otherwise. If so, please provide your reasons and any alternative proposals.

## **Preliminary impact assessment**

*[Subject to finalisation by Economics Team. No prejudice or cost to respondents or companies under review is anticipated by the proposed minor consequential changes to the procedures.]*

## **Consultation details**

Consultation opened: 30 September 2020  
Respond by: 30 November 2020

Enquiries and responses to:

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The Financial Reporting Council  
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Email: [proceduresconsultation20@frc.org.uk](mailto:proceduresconsultation20@frc.org.uk)

When responding, please state whether you are responding as an individual or representing the views of an organisation.

## **Public responses, confidentiality and data protection**

The FRC's usual policy is to make publicly available responses received to our consultations. Please do not include your personal data (e.g. your name, title and contact details) - or your personal signature in your response document if you do not wish that information to be published or otherwise disclosed. If you do not wish for all or part of the substance of your response to be published, please tell us and explain why. (An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.)

Please note that even where we do not publish your response alongside others, we cannot guarantee absolute confidentiality; information you provide us may be subject to disclosure in accordance with applicable access to information frameworks (e.g. the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

We will process your personal data in accordance with all applicable data protection laws. Please see our [privacy policy](#).

Appendix 1 – Audit Enforcement Procedure  
Appendix 2 – Accountancy Scheme  
Appendix 3 – Actuarial Scheme  
Appendix 4 – Conduct Committee Operating Procedures  
Appendix 5 – Auditor Regulatory Sanctions Procedure  
Appendix 6 – Crown Dependency Regulatory Sanctions Procedure  
Appendix 7 - Auditor General Disciplinary Procedure Rules