



By email to: Financial Reporting Council

codereview@frc.org.uk

28 February 2018

Dear Sir/Madam,

Consultation response to proposed revisions to the UK Corporate Governance Code (“the Code”)

This submission is made by KAZ Minerals PLC, a copper company focused on large scale open pit mining in Kazakhstan and listed in London since 2005. In general, we welcome the updated Principles and their emphasis on the value of good corporate governance to the long-term success of companies. We would however like to comment on proposed Provisions 11 and 15.

Provision 15

Provision 15 provides that a chair or non-executive director shall not be considered independent if any of the stated criteria applies, including if they have served on the board for more than nine years. Under the current Code, where any of the “non-independence” criteria apply, the board is permitted to explain why, for example despite a period of service longer than 9 years, it continues to regard a director as independent. In our view, the current Code offers boards the flexibility to use their judgement on a case by case basis. If the board believes that a director remains independent and provided the appointment is supported by a company’s shareholders, we believe it is reasonable for a non-executive director to serve for more than nine years on the board of a company, should they continue to demonstrate the independence and objective judgement required. We believe that the nine-year limit as currently envisaged in the draft Code is too arbitrary, and would have the effect of excluding from the board certain directors who have developed a detailed knowledge of the business over time and are therefore well placed both to challenge management and to understand the needs of the business with due regard to strategy and risk.

Provision 11

We note that under proposed Provision 11 of the revised Code, the chair should be independent whereas under the current Code the chair only needs to be independent on appointment.

In the case of a chair appointment, if a non-executive director had served on the board of a company for six years, at which point he or she was deemed by the board to be the right person to become chair, it would be very disruptive to the company if that individual could only chair the company for three years. We also believe that the years spent in the role of a non-executive director should not count towards those as chair due to the different nature of the roles.

We do not consider that the chair needs to be independent in the same way as a non-executive director needs to be so. Non-executive directors do not have the same proximity to the executive directors as the chair and are on a board to constructively challenge the strategies of the executive directors and to scrutinize the performance of management, bringing an independent external perspective to the board. The chair’s role however, as stated in the Code, is leading the board and being responsible for its effectiveness in directing the company whilst promoting communication between all directors. In order to fulfil this role effectively, the chair needs an in-depth knowledge of the business including its strategy, culture, its investors and its history as well as a good relationship with and understanding of the directors, both executive and non-executive. This may include developing an ongoing close dialogue and a relationship of trust with the executive directors to provide advice and guidance, whilst drawing from the skills and the independent perspective of the independent non-executive directors.

If you would like to discuss our views further please do not hesitate to get in touch.



Susanna Freeman
For and on behalf of KAZ Minerals PLC