



Hill & Smith Holdings PLC

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**CONSULTATION RESPONSE TO PROPOSED REVISIONS
TO THE UK CORPORATE GOVERNANCE CODE**

Hill & Smith Holdings PLC has reviewed the suggested changes to the UK Corporate Governance Code (“the Code”) and wish to respond in particular to questions 3, 7, 8 and 9.

Question 3

Do you agree that the methods proposed in relation to gathering the views of the workforce are sufficient to achieve meaningful engagement?

Whilst the suggested code makes reference to methods in relation to gathering the views of the workforce, we believe that it is important that a fourth option of giving the company an opportunity to choose other methods is essential. We have a number of issues over whether those suggested methods will achieve meaningful engagement and comply with other provisions within the code and that whilst we welcome reporting on employee consultation we believe the onus should be on the Company to develop the appropriate mechanisms and explain why they are appropriate and to what extent the Company has defined the term ‘workforce’.

In a company with international subsidiaries there are a number of different and difficult issues to deal:

- How does one director appointed from the workforce represent the views of all of the workforce, given the different national cultures within the group;
- In giving responsibility to a non-executive director to represent the views of the workforce, we have concerns over how this might actually be achieved, given in our case the time required by the relevant non-executive director be required to seek the views of c. 4,000 employees in seven countries.
- We also have concerns over how a formal workforce advisory panel would work in practise, other than to fulfil a compliant role. The consultation document has used the term ‘workforce’ to encourage companies to consider how their actions impact not only on those with formal contracts of employment but could also include agency workers, contractors etc. It is difficult to see how anybody could engage both practically and with effectiveness with those who by their nature may have a transient relationship with the Company.

We, therefore have concerns that the imposition of specific solutions is indicative of a ‘one model fits all solution’ and is not practical or effective in relation to different business models, nor is it in keeping with past Code’s principle-based approach to governance.

Question 7 and 8

Do you agree that nine years, as applied to non-executive directors and chairs, is an appropriate time period to be considered independent?

Do you agree that it is not necessary to provide for a maximum period of tenure?

We are not sure why the FRC has changed its view on the independence of the Chairman, particularly as Section 173 the Act requires all directors irrespective of the status to exercise independent judgement. The provisions have worked well for the last 25 years and companies have based their succession planning on the Code’s current position. The proposed change in the positioning of the chairman seems at odds with how the role operates. The chairman acts as a bridge between executive and non-executive directors which the design of the existing code



reflects. The new provision does not appear to reflect the specific and rather unique position of the non-executive chairman.

If the FRC is insistent on pursuing this change we believe that there should be a transition period in adopting the new Code, as companies should have time to adapt their existing arrangements and succession planning in an orderly manner, with due regard to Section 172 of the Act which highlights a directors' duty to promote the success of the company. In the absence of such a transition period many companies, which are currently compliant with the current Code, will be forced to make rapid changes to the most senior levels in order to comply with these changes to the Code. We believe that a number of companies will have to make rushed decisions to restructure their Boards if this change is pushed through.

In addition, in cases where an existing non-executive director ascends to the chair position an overall nine year tenure may be too short. We recognise that there is provision to 'explain', however, unless the intention is to prevent existing non-executive directors from ascending to the chair (which would seem to be an undesirable policy aim given the advantages which an existing non-executive director could bring to the chairman role). At the same time in industry sectors where there are only a few non-executive director candidates with the right level of skills and experience to assume the role of chairman this change may restrict the pool of candidates further.

If the FRC is concerned with the length of time that Chairman spends on the Board as Chairman, we would suggest that the solution is either (a) to have a maximum period of tenure for all Chairman irrespective of how or when elected to the position or (b) a time extension for those non-executive directors "promoted" to chairman.

Hill & Smith Holdings PLC has a succession plan based on the current Code. Jock Lennox, having previously been the chairman of our Audit Committee & Senior Independent Director, was appointed Chairman in mid-2017 in recognition of this plan, which involves both non-executive and executive directors. If the proposed rule comes into effect in 2019 without allowance for a transition period, the Company would require to immediately replace Jock or find itself out of compliance. Our succession plans take some years to put in place and implement and the potential imposition of a requirement for an abrupt change of chairman creates a risk for the Company which we do not believe is warranted.

Question 9

Do you agree that the overall changes proposed in Section 3 of the revised Code will lead to more action to build diversity in the boardroom, in the executive pipeline and in the company as a whole?

Whilst the Board of Hill & Smith Holdings PLC unreservedly support the need to encourage diversity, in all its forms, in the executive pipeline, we are concerned that the current attitude will lead to a target-led approach, which will introduce the concept of 'building boards by numbers' rather than ensuring the make-up of the Board best suits the business model of the company and appointments should be made on the basis first and foremost of merit and objective criteria, cognitive and personal strengths.

We would be happy to answer any questions you may have on our response and in the first instance I would ask you to contact me on alex@hsholdings.com.

Yours sincerely

C A Henderson FCIS
Group Company Secretary