

**Email** – Tony Johnson

18 February 2018

### Responses to the Consultation

I recognise that some of my observations may fall outside your remit and in responding to your consultation I am confining myself to those matters which I believe need to be addressed which do not fall naturally within the scope of your consultation questions:

#### The Auditors

1. I believe that the auditors should shoulder personal responsibility and therefore liability for their statements and pay compensation to shareholders where those statements are incomplete, inaccurate or wrong. At the moment it is their firms that pay and the responsible audit partner is not liable!! There have been too many cases of auditors' statements saying companies are able to continue as going concerns for the subsequent twelve months where the companies have failed e.g. HBOS and Carrilion. HBOS plc failed on 1 October 2008 just over seven months after the KPMG Audit plc gave an unqualified audit opinion on its 31 December 2007 financial statements on 26 February 2008.

2. Where the management of a bank pushes for example against its auditor's impairment recommendations and the directors refuse to accept the auditors recommendations, this should be recorded in board minutes and be reportable to the FRC and the FCA. Indeed a table of such reportable events needs to be established.

3. The position of four major accounting firms dominating auditing should be addressed.

#### Board Minutes

4. The Institute of Chartered Secretaries & Administrators (ICSA) has produced extremely good guidelines on minute taking but these are guidelines and need to become mandatory to ensure proper records are kept of decisions and the background information.

5. All informal discussion, all risk assessments and assurances given by and to directors related to company takeovers outside formal board meetings should be required to be included in board minutes.

6. The minutes of all board meetings should require the disclosure of all financial interests of those in attendance i.e. including merchant bankers and other professionals.

#### Directors

7. The responsibilities of directors be significantly enhanced and the law on reflective loss should be changed to ensure that shareholders are able to gain compensation from the failure of directors to act appropriately.

8. Directors should be personally liable for all failures to record decisions made and reasoning behind them in the board minutes.

9. Directors should be personally liable for all failures to disclose relevant information to shareholders.

10. Directors should be personally liable for misconduct and protection from professional indemnity insurance restricted.

## Regulation and Supervision

11. Banking supervision should be tightened up to ensure proper standards of behaviour are adhered to. Each Lloyds share is worth only 10% of what they were 20 years ago when I retired! Dividends have similarly declined in value. The compensation for mis-selling is now in excess of £30bn which includes £18bn for Lloyds, which represents a significant loss of corporation tax for the UK Treasury. During this time significant bonuses have been paid to directors and senior management and the former chief executive Eric Daniels has the temerity to go to court to seek bonus money he claims is still due to him. Staff had been encouraged to build up shareholding through SAYE contracts and suffered losses.

12. Group litigation should follow the US system of 'opt out' instead of the UK 'opt in' to ensure actions can be taken on a timely basis.

13. The regulatory authorities should be prohibited from giving dispensation from disclosing material facts from shareholders in takeover bids.

14. The regulatory authorities should prohibit the advancing of loan(s) by the acquiring company to keep its takeover target from going into administration without the issuance of a Class 1 Circular.

15. Political interference in takeovers should not be allowed as in the case of the Lloyds TSB takeover of HBOS.