

**IN THE MATTER OF**

**THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL**

**-and-**

**(1) PRICEWATERHOUSECOOPERS LLP**

**(2) NICHOLAS WILLIAM EDWARD BODEN**

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**SETTLEMENT AGREEMENT**

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1. This Settlement Agreement ("**Settlement Agreement**") is made on the 26 day of June 2017 between Gareth Rees QC as the Executive Counsel of the Financial Reporting Council ("**FRC**"), of 8<sup>th</sup> Floor, 125 London Wall, London, EC2Y 5AS ("**the Executive Counsel**") of the first part, and PricewaterhouseCoopers LLP of 1 Embankment Place, London, WC2N 6RH ("**PwC**") of the second part and Nicholas William Edward Boden ("**Mr Boden**") of the third part. The Executive Counsel, PwC and Mr Boden together are described as "**the Parties**".
2. The Settlement Agreement is evidenced by the signatures of the Executive Counsel on his own behalf, by Margaret Cole on behalf of PwC and by Mr Boden on his own behalf.
3. The Formal Complaint alleging Misconduct against PwC and Mr Boden as a Member Firm and Member respectively of the Institute of Chartered Accountants in England and Wales was delivered by the Executive Counsel under paragraph 7(11) of the FRC Accountancy Scheme (8 December 2014) ("**the Scheme**") on 8 December 2016. The amended Formal Complaint as submitted to the Disciplinary Tribunal ("**the Tribunal**") is annexed to this Settlement Agreement.
4. The amended Formal Complaint relates to the conduct of PwC and Mr Boden in relation to the audit of the financial statements of RSM Tenon Group plc ("**RSM Tenon**") for the financial year ended 30 June 2011 ("**FY11**"). More specifically, the conduct of PwC and Mr Boden fell significantly short of the standards reasonably to be expected of, respectively, a Member and a Member Firm in respect of the audit of the financial statements of RSM Tenon for FY11 in the following areas:
  - (i) the accrual of bonus payments;

- (ii) certain aspects in relation to the recognition of Work in Progress and amounts recoverable on contracts;
  - (iii) the Econocom Leases;
  - (iv) the assessment of the impairment of goodwill; and
  - (v) the calculation of goodwill in relation to the Finance and Management Business School.
5. PwC and Mr Boden admit Allegations 3, 6, 11, 14 and 15 in the amended Formal Complaint.
  6. The Parties recognise that the determination to be made in this case is a matter for the Tribunal in accordance with paragraph 8(5) of the Scheme.

**PwC - Sanction**

7. The Executive Counsel and PwC have agreed the following terms of settlement:
  - a) A Fine of £6,000,000 (discounted for settlement by 15% to £5,100,000). The Fine shall be paid not later than 28 days after the date when the Settlement Agreement takes effect; and
  - b) PwC to receive a Severe Reprimand.
8. In reaching this Settlement Agreement with PwC, the Executive Counsel considered the following stages and took account of the following factors in accordance with the FRC's Sanctions Guidance (1 June 2014) ("**the Sanctions Guidance**"):

***Nature and Seriousness of the Misconduct***

9. The Misconduct risked the loss of significant sums of money;
10. The Misconduct involved a failure to comply with professional standards across a number of areas of the audit;
11. The nature, extent and importance of the standards breached. The Misconduct included significant failings regarding professional scepticism, which is a key component of auditors' duties;
12. The Misconduct was not dishonest, deliberate or reckless;
13. The Misconduct did not involve a failure to act or conduct business with integrity;
14. The Misconduct potentially adversely affected a significant number of people in the United Kingdom as RSM Tenon was a publicly listed company;
15. The Misconduct could undermine confidence in the standards of conduct in general of Member Firms and/or in financial reporting and/or in the profession generally;
16. The Misconduct was extensive, comprising five separate Allegations (as detailed in the amended Formal Complaint); and

17. PwC was conducting the audit of an accounting firm, and therefore should have had an increased understanding of the business.

#### ***Identification of Sanction***

18. Having assessed the nature and seriousness of the Misconduct, the Executive Counsel has determined that a Fine and a Severe Reprimand is an appropriate sanction. Executive Counsel has then taken into account any aggravating and mitigating factors that exist (to the extent that they have not already been taken into account in relation to the seriousness of the Misconduct). Having considered those additional factors set out below, the Executive Counsel has determined that no adjustment to sanction is necessary.

#### ***Aggravating Factors***

19. PwC was fined £1,400,000 in 2011 by the Accounting and Actuarial Disciplinary Board following an admission of Misconduct in relation to its role in reporting to the FSA on JP Morgan Securities Limited's compliance with the FSA's Client Money Rules. PwC entered into a Settlement Agreement with the Executive Counsel in which it admitted Misconduct and was fined £3,500,000 (reduced to £2,300,000 after mitigation and a settlement discount) in 2016 in respect of its audits of Cattles plc and Welcome Financial Services in 2007. PwC was also fined £5,000,000 in 2017 by a Disciplinary Tribunal, following Adverse Findings of Misconduct, in respect of its audits of Connaught plc and its subsidiaries in 2009.

#### ***Mitigating Factors***

20. PwC co-operated during the investigation of the Misconduct by the Executive Counsel. However, this is not a significant mitigating factor given PwC has a duty to co-operate fully with Executive Counsel in accordance with paragraph 14 of the Scheme;
21. PwC has subsequently taken remedial steps to enhance its audit procedures in relation to the exercise of professional scepticism, including increased training and documentation requirements in the course of an audit;
22. There is evidence to suggest that PwC and Mr Boden were deliberately misled by the RSM Tenon management; and
23. PwC did not stand to gain any profit or benefit from the Misconduct.

#### ***Deterrence***

24. No adjustment for deterrence is required in this case.

#### ***Discount for Admissions and Settlement***

25. Having taken into account admissions by PwC and the stage at which those admissions were made (in Stage 2 of the case in accordance with paragraph 59 of the Sanctions Guidance), the Executive Counsel determined that a reduction of 15% as to the Fine as a settlement factor is appropriate.

#### ***Other Considerations***

26. In accordance with paragraph 32(ii) of the Sanctions Guidance, the Executive Counsel has taken into account the size and financial resources of PwC and the effect of a Fine on its business; and whether there are arrangements that would result in part or all of the Fine being paid or indemnified by insurers.

**PwC - Costs**

27. The Executive Counsel and PwC have agreed the following terms of settlement:

A sum of £500,000.00 to be paid by PwC as a contribution towards the Executive Counsel's costs of, and incidental to, the investigation into both PwC and Mr Boden. The costs shall be paid not later than 28 days after the date when the Settlement Agreement takes effect.

28. In accordance with paragraph 62 of the Sanctions Guidance, the Executive Counsel has taken into account PwC's financial position and the impact of the Fine; and whether there are arrangements that would result in part or all of the costs being paid or indemnified by insurers.

**Mr Boden - Sanction**

29. The Executive Counsel and Mr Boden have agreed the following terms of settlement:

- a) A Fine of £150,000 (adjusted for aggravating and mitigating factors and discounted for settlement to £114,750). The Fine shall be paid not later than 28 days after the date when the Settlement Agreement takes effect; and
- b) Mr Boden to receive a Severe Reprimand.

30. In reaching this Settlement Agreement with Mr Boden, the Executive Counsel considered the following stages and took account of the following factors in accordance with the Sanctions Guidance:

***Nature and Seriousness of the Misconduct***

- 31. The Misconduct risked the loss of significant sums of money;
- 32. The Misconduct involved a failure to comply with professional standards across a number of areas of the audit;
- 33. The nature, extent and importance of the standards breached. The Misconduct included significant failings regarding professional scepticism, which is a key component of auditors' duties;
- 34. The Misconduct was not dishonest, deliberate or reckless;
- 35. The Misconduct did not involve a failure to act or conduct business with integrity;
- 36. The Misconduct potentially adversely affected a significant number of people in the United Kingdom as RSM Tenon was a publicly listed company;

37. The Misconduct could undermine confidence in the standards of conduct in general of Members, and/or in financial reporting and/or in the profession generally;
38. Mr Boden held a senior position and had supervisory responsibilities;
39. The Misconduct was extensive, comprising five separate Allegations (as detailed in the amended Formal Complaint); and
40. Mr Boden was conducting the audit of an accounting firm, and therefore should have had an increased understanding of the business.

#### ***Identification of Sanction***

41. Having assessed the nature and seriousness of the Misconduct, the Executive Counsel has determined that a Fine and a Severe Reprimand is an appropriate sanction. Executive Counsel has then taken into account any aggravating and mitigating factors that exist (to the extent that they have not already been taken into account in relation to the seriousness of the Misconduct). Having considered those additional factors set out below, the Executive Counsel has determined that the Fine should be reduced by 10% to £135,000.

#### ***Aggravating Factors***

42. Executive Counsel has concluded there are no aggravating factors to be taken into account.

#### ***Mitigating Factors***

43. Mr Boden holds a hitherto unblemished compliance history and disciplinary record;
44. Mr Boden co-operated during the investigation of the Misconduct by the Executive Counsel. However, this is not a significant mitigating factor given Mr Boden has a duty to co-operate fully with Executive Counsel in accordance with paragraph 14 of the Scheme;
45. There is evidence to suggest that Mr Boden and PwC were deliberately misled by the RSM Tenon management; and
46. Mr Boden did not stand to gain any profit or benefit from the Misconduct.

#### ***Deterrence***

47. No adjustment for deterrence is required in this case.

#### ***Discount for Admissions and Settlement***

48. Having taken into account full admissions by Mr Boden and the stage at which those admissions were made (in Stage 2 of the case in accordance with paragraph 59 of the Sanctions Guidance), the Executive Counsel determined that a reduction of 15% as to the Fine as a settlement factor is appropriate.

#### ***Other Considerations***

49. In accordance with paragraph 32(iii) of the Sanctions Guidance, the Executive Counsel has taken into account Mr Boden's financial resources and whether there are arrangements that would result in part or all of the Fine being paid or indemnified by insurers or his firm, PwC.

**Mr Boden - Costs**

50. The Executive Counsel and Mr Boden have agreed that there shall be no order for costs against Mr Boden.
51. If the decision of the Tribunal is to approve the Settlement Agreement, including the sanctions set out above, then the Settlement Agreement shall take effect from the next working day after the date on which the notice of the decision is sent to PwC and Mr Boden in accordance with paragraph 8(5) of the Scheme.
52. The Settlement Agreement and annexed amended Formal Complaint will remain confidential until publication in accordance with paragraph 8(6) of the Scheme.



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**Gareth Rees QC**  
**Executive Counsel**

26 June 2017  
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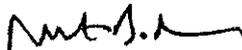
**Date**



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**Margaret Cole**  
**On behalf of PricewaterhouseCoopers LLP**

26.6.17  
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**Date**



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**Nicholas William Edward Boden**

26.6.17  
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**Date**