

Chris Shaw Esq.
Clerk to BEIS Select Committee
House of Commons
London
SW1A 0AA

30 November 2016

Dear Chris,

We undertook to write with our views on how our recommendations on corporate governance could be taken forward, specifically whether additional powers would be needed.

I have attached a list of our recommendations for ease of reference. Most of these involve changes to the corporate governance code which the FRC can put into effect without additional powers. However, there are some regulatory reforms that we would like and need Government to implement.

Our first recommendation is that steps should be taken to invigorate the effectiveness of section 172 of the Companies Act. We propose doing this by amending the Code and or the Strategic Report Guidance to require companies (subject to "comply or explain") to disclose in their Annual Report how they have gone about taking account of the interests of stakeholders. Such a change in the Code could not, however, apply to private companies and there is a case for a similar requirement to be placed on them, not least because section 172 applies to directors in all types of company. To achieve that the Government would need to change the regulations on corporate reporting.

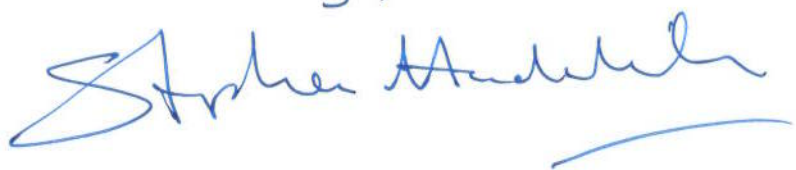
The FRC has proposed that it should also take forward the development of a governance code for large private companies. Such a code would not in itself require legislation. However, the nature of closely-held large private companies means that there would need to be regulatory underpinning. This would require adherence to such a code and public reporting on how that has been achieved or explaining why it is not appropriate to do so.

We believe that the quality of information to shareholders on governance matters is of considerable importance to enable them to hold the company to account. We have powers to monitor the company's strategic report and financial statements but not other parts of the report which often contain crucial governance information. We believe that the FRC should have powers to secure information to enable us to test effectively the quality of governance information and, particularly, companies' explanations for non-compliance with the Code and to take action as a result.

At present the FRC can take action against directors who are auditors, accountants or actuaries, but we cannot take any action against other directors even where the evidence suggests that they are equally culpable of a breach of regulations. We believe this should be rectified both in relation to questions of integrity and a failure to report properly to shareholders. We believe that a code of conduct for directors, sitting alongside the codified duties in the Companies Act, and covering ethical standards, should be developed. The FRC would be

willing to take a lead in this. Such a code should be enforceable and to that end a statutory provision should be put in place to enable oversight of directors subject to the code by the FRC. An alternative would be to extend the directors disqualification regime under the Company Directors Disqualification Act 1986. Currently, the Insolvency Service, on behalf of the Secretary of State, takes action under the Act. Such action generally arises out of insolvency issues. The delegation could be extended to other regulators, including the FRC, so that they could take action based on the matters they have sight on through their current activities plus breaches of the proposed code.

I should be happy to expand on any aspect of this letter if further detail is required.

Yours sincerely,


Stephen Haddrill

Chief Executive

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Recommendations included in our submission are summarised as follows:

1. Improving/invigorating the operation of s172 of the Companies Act through amendments to the UK Corporate Governance Code providing for disclosure in companies' annual reports and related changes to the FRC's Strategic Report Guidance. This can be pursued by the FRC and would not require powers. However, its application to all companies, including private companies would require a change to the Governments reporting regulations.
2. Review of the UK Corporate Governance Code and associated guidance to develop best practice on delivering Board responsibilities to a range of stakeholders.
3. Review of the UK Corporate Governance Code to examine whether disclosures relating to board communication might be strengthened to enable appropriate scrutiny and challenge by shareholders and wider stakeholders.
4. A code and/or guidance directly applicable to the governance arrangements of large private companies should be developed.
5. Monitoring the quality of UK Corporate Governance Code reporting, including the option of more direct contact with companies where explanations are not adequate, and publicising good and poor practice.
6. Government review of the enforcement framework in order to establish an effective mechanism for holding directors and others in senior positions to account when they fail in their responsibilities.
7. Review of the UK Corporate Governance Code to consider a wider role for remuneration committees including the pay and conditions of the company workforce and reporting on the link between remuneration structure and strategy.
8. Government inquiry into the issues raised by the quantum, growth, disparity and performance-linkage of rewards received by senior executives in a range of corporate forms.
9. Review of the UK Corporate Governance Code to explore whether and how, when there are significant shareholder votes against a remuneration report, companies should respond through additional shareholder consultation and reporting.
10. Review of the UK Corporate Governance Code and associated guidance against the recommendations proposed by the Hampton/Alexander and Sir John Parker reviews in order to improve board diversity, including reporting on actions and progress.