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Submitted by email to [codereview@frc.org.uk](mailto:codereview@frc.org.uk)

13 September 2023

Dear Sir/Madam

## **UK Corporate Governance Code - Response to Consultation**

This submission is made by Rentokil Initial plc (the “Company”), a UK-headquartered FTSE-100 company and global leader in the provision of route-based services including pest control, hygiene and workwear, operating in over 90 countries worldwide. The Company has a secondary listing on the New York Stock Exchange and is a foreign private issuer within the scope of the US Sarbanes Oxley Act 2002 (“SOX”).

We welcome the opportunity to contribute our views to the consultation on the proposed amendments to the UK Corporate Governance Code (the “consultation”). Having previously responded to the BEIS consultation ‘Restoring trust in audit and corporate governance’, we felt it important to also share our thoughts on the potential impacts from the proposed changes set out in the consultation document. We maintain a strong interest in the proposed changes and in ensuring that the UK continues to be a successful venue for investing in, listing and managing growing companies both now and in the future.

We have had the opportunity to provide input to the GC100 response to the consultation and are aligned with its response, which we have reviewed in full. We would, however, like to take this opportunity to separately set out some of the key areas of concern that we have. Specific responses to questions raised in the consultation are appended to this letter.

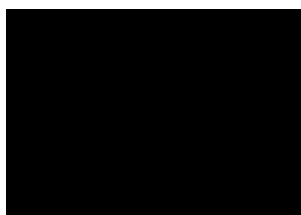
1. While the FRC, both in the consultation and at various engagement events held, has repeatedly emphasised the comply or explain element of the Code and therefore the flexibility offered to comply with the proposed changes, we do not believe that this reflects its application in practice. Proxy advisors often apply their voting policies rigidly and recommend against any proposals which deviate from the Code without considering the reasons given by the company resulting in votes received against a resolution or a particular director. Furthermore, there would be an expectation placed on audit committees to comply with the provisions.
2. Undertaking a full external audit of the strategic report, including all non-financial or sustainability data, would be extremely challenging for companies to undertake given the scope and timeframe being proposed; though with the ongoing development of reporting systems for non-financial and sustainability data, this may be something to consider in the future.

3. The proposal to maintain and sign off on controls throughout the year on a continual basis is not practicable. We feel strongly that any changes to controls and assurances should align with those already in place for foreign private issuers under SOX, whereby there is an annual requirement to sign off controls at a specific date. We believe that the declaration should be based on control effectiveness as at the balance sheet date. It is not practical for companies to monitor or ensure constant compliance as is currently proposed and the time commitment required by the Audit Committee to monitor and report on this continuously would also be impracticable. We can see no benefit in setting up two separate standards of governance and any deviation from SOX would just be an additional administrative burden and should be avoided.
4. We are concerned with the number of proposed changes which are outside of the scope of the government's reform agenda, and the introduction of such significant new rules on companies as proposed in the consultation document seems to be inconsistent with the efforts being made by the government to make the London Stock Exchange a more attractive listing venue. The proposed changes risk materially increasing the financial cost and procedural burden of doing business in the UK and the increased complexity in compliance could also act as a deterrent. Indeed, for those companies having to manage two separate regimes for controls and reporting, the changes may make them consider their listing in London.
5. Without sight of the guidance that will be developed there is currently insufficient granularity to understand the baseline for some of the requirements, particularly with regard to risk management and internal controls. However, the proposed timeline does not seem sufficient for the scope of the proposed changes. In most instances in order to comply with the new Code from 1 January 2025, we would anticipate that companies would need to commence planning and processes in 2024. To implement all the proposed changes will be challenging for the businesses involved, particularly those who have not previously had to report under the UK Corporate Governance Code, and we have concerns regarding the risk of potential resource issues arising as a result, both for businesses who need to recruit additional skilled individuals in-house and also in professional services, including audit firms, who are unlikely to have a sufficient number of suitably qualified individuals to support all of these companies. We are also concerned with the additional costs involved in resourcing to support the proposed changes and the risk of an overall decrease in the quality of reporting.

We have chosen to focus our response on those questions where we have especially strong views or where we feel we can offer the most valuable contribution and assistance to the consultation process. These can be found on the following pages. As previously mentioned, we have also seen and endorse the response submitted by the GC100 to the consultation.

We would be happy to arrange a meeting to discuss any of the comments included in the response, and are happy for our response to be published.

Yours sincerely



## Specific Responses to Selected Consultation Questions

### Section 1 – Board leadership and company purpose

#### **Q1. Do you agree that the changes to Principle D in Section 1 of the Code will deliver more outcomes-based reporting?**

We agree with the GC100 response to this question and believe that the first sentence in the proposed new text "When reporting on its governance activity the board should focus on outcomes" is not sufficiently clear as to provide any meaningful disclosure.

#### **Q2. Do you think the board should report on the company's climate ambitions and transition planning, in the context of its strategy, as well as the surrounding governance?**

We are in agreement with the GC100 response to this question and believe the proposed additional text is duplicative of existing requirements under the Companies Act 2006 and the Listing Rules requirements for the board to report on such matters and it should not be added here.

#### **Q3. Do you have any comments on the other changes proposed to Section 1?**

We believe that in Provision 3, the phrase "seek engagement" should not be changed to "engage". As evidenced by our attempts to engage with investors over many years, it can be challenging to obtain meaningful investor engagement in other governance areas such as remuneration and it is extremely rare for investors to ask questions on audit related items. We therefore believe that this will only place an extra burden on companies to attempt to engage with investors with no discernible benefit. There are sufficient existing methods for investors to engage with a company already without imposing this additional requirement.

### Section 2 – Division of responsibilities

#### **Q4. Do you agree with the proposed change to Code Principle K (in Section 3 of the Code), which makes the issue of significant external commitments an explicit part of board performance reviews?**

We are in agreement with the GC100 response to this question and do not believe that this should become an explicit part of board performance reviews and that the existing ability for a company to manage this flexibly on appointment and then on an ongoing basis should be maintained. The new text seems overly prescriptive and we would also like to note that while this question refers to "significant external commitments", the proposed text says "each director's commitments" and does not state that it is only significant commitments which need to be considered. We agree with the GC100 that the use of the word "commitments" is unclear and there should be consistency of which commitments/appointments are covered by Principle K and Provision 15.

#### **Q5. Do you agree with the proposed change to Code Provision 15, which is designed to encourage greater transparency on directors' commitments to other organisations?**

While we support the disclosure of a director's significant commitments in the annual report, this is already provided as standard in the biographical information in the annual report and is covered under the existing requirements in Provision 15. The proposed requirement to describe "how each director has sufficient time to undertake their role effectively in light of commitments to other organisations" should not be included, in our view, as it is requesting directors to report on their ability to manage their own time and seems an unrealistic and potentially intrusive requirement. There is also a risk that it could result in a company needing to report on another company's activities during the year which is

not possible and may subsequently result in general boilerplate reporting with no additional value. Once again the use of appointment and commitment is ambiguous and terminology should be consistent throughout. The second sentence refers to an assessment which is not a term used in the first sentence so it is unclear if this is referring to the first sentence under Provision 15 or the proposed new wording in Principle K. If the description is actually to be an assessment then is this for a point in time (i.e. year end, the date of the report or throughout the year) and would committee roles need to also be considered? These new requirements will result in additional reporting without any clear material benefit to shareholders, and proxy agencies will continue to use their own methodology to assess director appointments in any event.

### **Section 3 – Composition, succession and evaluation Diversity and Inclusion**

#### **Q6. Do you consider that the proposals outlined effectively strengthen and support existing regulations in this area, without introducing duplication?**

We are supportive of the GC100 response to this question and feel that these proposals are duplicative and should either be removed or amended to align more closely to the existing diversity related disclosure requirements under the Listing Rules. We would also request that the proposed text in Provision 18 be amended for clarity to state that “The Committee should lead the process for Board appointments” as the text goes on to refer to senior management.

#### **Q7. Do you support the changes to Principle I moving away from a list of diversity characteristics to the proposed approach which aims to capture wider characteristics of diversity?**

We are in agreement with the GC100 response to this question and, while we support a broad view of diversity characteristics, we do not feel that the use of “protected characteristics and non-protected characteristics” is a suitable replacement. The terminology is too broad and unfamiliar to result in meaningful disclosure for investors.

#### **Q8. Do you support the changes to Provision 24 and do they offer a transparent approach to reporting on succession planning and senior appointments?**

Similar to the GC100, we do not support the proposed changes to Provision 24 to report on succession planning as, particularly for senior management, this is highly sensitive and confidential and it would not be possible for anything other than generic, boilerplate reporting to be provided. We believe a high level understanding of a process being in place is in the best interests of shareholders and management and anything more specific would not help or add value.

We are also concerned that the references to pipelines in succession planning does not take into account the process in the external market, for non-executive directors recruitment in particular, where potential candidates may only be available for a limited period and so cannot properly be considered a pipeline.

### **Board performance reviews**

#### **Q9. Do you support the proposed adoption of the CGI recommendations as set out above, and are there particular areas you would like to see covered in guidance in addition to those set out by CGI?**

We have no issue with the adoption of the CGI recommendations although we do mirror the GC100’s concerns about the volume of guidance being produced. We would note that if the term “evaluator” is being replaced with “reviewer”, then in Provision 24 it should say “an external reviewer’s contact.”

## **Section 4 – Audit, risk and internal control**

### **Audit Committees and the External Audit: Minimum Standard**

#### **Q11. Do you agree that amending Provisions 25 and 26 and referring Code companies to the Minimum Standard for Audit Committees is an effective way of removing duplication?**

Yes, we are supportive of the cross-referral to the Minimum Standard for Audit Committees to try and reduce duplication.

### **Sustainability Reporting**

#### **Q12. Do you agree that the remit of audit committees should be expanded to include narrative reporting, including sustainability reporting, and where appropriate ESG metrics, where such matters are not reserved for the board?**

We are in agreement with the GC100 response to this question and believe that companies should retain the current flexibility to manage narrative reporting, including sustainability reporting, and that this change is not necessary.

### **Risk Management and Internal Controls**

#### **Q13. Do you agree that the proposed amendments to the Code strike the right balance in terms of strengthening risk management and internal controls systems in a proportionate way?**

We support the GC100 response to this question and believe that the current regulations are sufficient and fit for purpose. The proposed amendments are either duplicative or onerous and are not considered proportionate. As a company listed on the New York Stock Exchange, we also have concerns that the proposed amendments will result in a parallel, different framework to the Sarbanes Oxley (SOX) requirements under the US SEC and will therefore be unmanageable.

#### **Q14. Should the board's declaration be based on continuous monitoring throughout the reporting period up to the date of the annual report, or should it be based on the date of the balance sheet?**

We feel strongly that the board's declaration must be based on the date of the balance sheet and should align with existing SOX requirements. It would be virtually impossible in practice to undertake this on a continuous basis and for directors to feel sufficiently comfortable to provide such a statement. We are in agreement with the comments raised by the GC100 in its response to this question.

#### **Q15. Where controls are referenced in the Code, should 'financial' be changed to 'reporting' to capture controls on narrative as well as financial reporting, or should reporting be limited to controls over financial reporting?**

No, we do not believe that 'financial' should be changed to 'reporting'. Much of the non-financial reporting is covered already by either the Code or other existing or upcoming legislation or guidance, such as new environmental standards and the proposed changes do not clarify the boundaries of narrative reporting under the Audit Committee's remit. The existing wording in the Code is meant to afford companies the flexibility to determine what is material in their context. We have concerns that the change of wording and emphasis, with the lack of such a boundary, may create additional and unintended complexity in reporting whether or not the Provision has been complied with.

## **Section 5 – Remuneration**

### **Changes to strengthen links to overall corporate performance**

#### **Q22. Do the proposed revisions strengthen the links between remuneration policy and corporate performance?**

We share the GC100's concerns about various aspects of the drafting of these proposed changes.

We are concerned that any more changes, particularly to raise the bar further or require more scrutiny, will only make it harder and harder for businesses to recruit and retain key talent in the UK. There is a risk it may also push those who see the remuneration divide between the UK and US to move or take roles in private equity.

Finally there is a risk that continually increasing the number of requirements will have an adverse effect and actually reduce the likelihood of a remuneration policy that is aligned to company strategy and performance.

### **Malus and Clawback**

#### **Q23. Do you agree that the proposed reporting changes around malus and clawback will result in an improvement in transparency?**

We support the GC100's response to this question and do not feel that a five-year look back period is necessary. We would note that it would seem inappropriate to include malus and clawback provisions in a letter of appointment for a non-executive director that details the annual fee with no variable remuneration elements, as would be required under the proposed additional wording in Provision 39. It is requested that this wording be reviewed to avoid a large number of companies having to explain this area of non-compliance each year.

### **Changes to improve the quality of reporting**

#### **Q24. Do you agree with the proposed changes to Provisions 40 and 41?**

We are extremely supportive of the proposed removal of Provision 40 and the consequential amendment to Provision 41.

#### **Q25. Should the reference to pay gaps and pay ratios be removed, or strengthened?**

We consider these to be duplicative and believe they should be removed.