

Responses to the FRC Consultation Paper 2023 on the UK Corporate Governance Code

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

- * Yes. The change in this Principle will provide additional support to the existing code provisions and help strengthen the basis for reporting. Companies reporting on the code integrating it with outcomes and the impact of governance practices will lead to effective reporting and demonstrate value addition.
- * Suggestion: The flexibility of comply or explain provided by the code enables companies to develop bespoke governance arrangements. However, it will be great to see outcome-based reporting from the companies who chose not to comply with the code, as in to understand how and what governance structure has been effective for them and to gain greater insight into the reason why they have departed from the code.

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?

- * With the growing awareness of ESG it will be ideal for the Boards to integrate ESG reporting in the context of their strategy to showcase the sustainability of their business. However, it needs to be noted that it might not be feasible for all companies, specifically Investment companies who rely heavily on their investments managers for such reporting in terms of qualitative and quantitative aspects that can be measured.
- * Suggestion: It will be really useful to get some guidance on how climate ambitions and transition planning can be depicted in terms of measurable reporting.

Q3: Do you have any comments on the other changes proposed to Section 1?

- * Companies need to acknowledge that creating a positive culture requires patience, openness and a commitment to continuous development that is not interrupted by changes in senior management.
- * Whereas it is duly noted that reporting on culture has been weak and that reporting on how effectively the desired culture has been embedded is something that needs to be attained, it will be very useful if suitable guidance is provided in terms of such reporting.
- * The guidance should ensure that the board focus on aligning the company's culture with its purpose, values, and strategy and that leadership comes from the top through actions and attitudes, but at the same time the workforce must feel engaged and feel empowered to contribute to cultural change.

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?

- * Though the number of external commitments of board members is an important measure of a directors' available time and their focus and dedication to a company, it should also be reflective of the size of the company, its industry, its complexity, and challenges that it faces. That said, the changing regulations and the need for boards to become more accountable, this will be a welcome move to put some check on increasing commitments by directors. Moreover, an open discussion about significant external commitments of each board member ensures that the matter is considered and discussed and such appointments are justified by ensuring that each board members current engagements are not impacted.

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?

- * Yes. Merely listing out the commitments of the directors in the ARA will not enable efficiency. However, this is a good step towards questioning whether too many appointments each board member has could potentially reduce the ability of the individual to provide sufficient time and expertise. This step enables the directors to discuss, consider and approve of each other's commitments and question where necessary. Also, this will encourage companies to look at diverse pools of talent and bring on board more people, rather than the same type of people being appointed to companies within a specific industry.

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

- * Yes, aligning the code with the requirements of the FCA policy statement of diversity and inclusivity ensures clarity to the companies moving towards listing out numerical disclosures either mandatorily or voluntarily.

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?

- * Yes, widening the diversity of characteristics to include all protected and unprotected characteristics strengthens the code and aligns it to support the wider regulatory framework, without introducing additional, duplicative targets or regulations. Such as FCA Policy as stated above to name a few. It also ensures that companies do not limit diversity to gender and ethnicity.

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

- * The changes to provision 24 are welcomed, as it does provide clear points on how the reporting needs to be done around Succession planning and senior management appointments. The FRC's proposed revisions are intended to strengthen the Code in this area to support the wider regulatory framework, without introducing additional, duplicate targets or regulations.
- * The changes improve explanations on diversity policies and demonstrate their link particularly to disclosures on board appointments, board composition and succession planning where there is often a lack of cohesion between the policies and the succession plans.
- * However, the companies need to exercise due care when linking the achievement of numeric diversity targets and succession planning and thereby not fill positions just to achieve diversity targets but rather also ensure that the required skill set for the Board is not impacted. Thereby proper guidance with finer details will be very helpful.

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?

- * Changing the nomenclature of Board evaluation to 'board performance review' is a welcome change and hopefully will ensure that the same is taken seriously and helps in improving the performance of the board over the years.
- * This will help Boards to consider it to be a forward-looking exercise and enable future improvements.
- * A detailed guidance containing finer details of conducting and measuring the Board performance and also disclosing the same in the ARA will be something that might be helpful in achieving the true essence of this change.

Q10: Do you agree that all Code companies should prepare an Audit and Assurance Policy, on a 'comply or explain' basis?

- * Indeed, preparing a triennial AAP for all code companies describing the directors' approach to seeking internal and external assurance of the information that they report to shareholders will enable it to boost investor confidence and maintain the integrity of the market. It will also enable shareholders to compare performance.
- * Suggestion: it will be extremely helpful if the guidance is able to provide finer details in terms of how the AAP can be made measurable and comparable in terms of quantitative and qualitative data.

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?

- * On the face of it, as the Code is considered to be Gold standard in the listed funds segment it will be more appropriate to mention the minimum standards in detail in the code rather than just making a reference to it, to ensure clarity and brevity. However, it is somehow beneficial also if there are any changes and improvements to the minimum standards then the same will automatically align the code to the minimum standard but the same might also lead to complications as any change will affect the code.
- * Also, as the standard applies to FTSE 350 companies and the Code to premium listed entities, if such a reference is made in the code it might bring into purview some companies outside the FTSE 350. However, though the code revision is on a comply or explain basis it would be beneficial if the standards are spelled out in the Code to make it clear.

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?

- * Partly Yes. With the increase in scope of the Audit committees in terms of designing and running with AAP which consists of assurances, long term viability of the business and various internal controls and risk management checks to weed out possibilities of fraud etc. making the business look promising and full proof, it will be an efficient approach to expand their remit to narrative reporting as well.
- * However, for sustainability the revised code is already pitching for this responsibility on the Board as a whole under Section 1, to align such reporting with the strategy of the business. Hence it will be much more efficient that the same is done by the Board as a whole as the entire business strategy and vision needs to be kept in mind rather than just the segmented audit/financial side. Also, if the AC is to get involved it will become more financially aligned rather than strategic and business continuity perspective.

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?

- * The proposed amendments can be very helpful only if proper guidance is provided by the FRC as in what the directors and Audit Comm members should be doing and how. At this stage the FRC is making internal control amendments very prescriptive and there has to be some boundary drawn as to what extent the Audit committee can go for such assurances.
- * The amendments around risk management are very much appropriate but again a suitable guidance defining the way disclosures should be made will be helpful.

Q14: Should the board's declaration be based on continuous monitoring throughout the reporting period up

Submitted by the Listed Funds Team - Apex Listed Companies Services (UK) Ltd

to the date of the annual report, or should it be based on the date of the balance sheet?

- * The board declarations should be based on the date of the balance sheet/year end as in to make it measurable and comparable year on year. Also, as the declarations of the board will be made based on their own internal checks and review of various other services providers it is ideal to put a cutoff date for them to make their checks and declarations and identify the material elements within that time only.
- * However, it is also not recommended to not report lapses/concerns/material issues, if any that happen between the date of the balance sheet and date of the annual report and hence guidance is sought from the FRC as in how the same could be assured and covered by some form of disclosure.

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?

- * Whereas it is ideal to change financial to reporting given the dynamic regulations and the addition of sustainability, environment and governance dimensions to the annual report and also aligning them with strategy by the board, it is to be figured out as in how much responsibility is to be added to the audit committee.
- * It should be noted that the focus of the audit committee should primary be the financial part and by adding the internal control checks and disclosures etc. the remit is already being expanded and has become very prescriptive. There has to be a boundary set around how far and deep the audit committee need to go and ensure that the front end and back end of the Annual report is aligned.

Q16: To what extent should the guidance set out examples of methodologies or frameworks for the review of the effectiveness of risk management and internal controls systems?

- * The guidance should spell out clearly the process and disclosures for the review of the effectiveness of risk management and internal control systems. Further it will be good if the guidance can also spell out some measurable and comparable criteria in terms of operation, reporting and compliance for reviewing the effectiveness of the above mentioned systems.
- * Also, it should be noted that during a year /reporting period the identification, management and mitigation of risk should be considered as the effectiveness of the above systems.

Q17: Do you have any proposals regarding the definitional issues, e.g. what constitutes an effective risk management and internal controls system or a material weakness?

- * -

Q18: Are there any other areas in relation to risk management and internal controls which you would like to see covered in guidance?

- * A guidance on to what extent the Audit Committee/ Board of Directors of Investment trusts should go for verifying and reviewing internal controls and risk management processes of various service providers.

Q19: Do you agree that current Provision 30, which requires companies to state whether they are adopting a going concern basis of accounting, should be retained to keep this reporting together with reporting on prospects in the next Provision, and to achieve consistency across the Code for all companies (not just PIEs)?

- * Yes.

Q20: Do you agree that all Code companies should continue to report on their future prospects?

- * Yes. with sustainability and resilience becoming an important theme, and increased awareness of and responsibility towards the stakeholders all code companies must continue to report on their future prospects. However, with the Annual Resilience Statement (though only for 750:750) reporting on matters it considers are a material challenge to resilience over the short and medium term combined with the Going Concern statement will also strengthen the future prospect reporting if followed by all code companies.
- * Further it ties in with the requirement of directors to provide information necessary for shareholders to assess the company's position, performance, business model and strategy.

Q21: Do you agree that the proposed revisions to the Code provide sufficient flexibility for non-PIE Code companies to report on their future prospects?

- * Yes.

Q22: Do the proposed revisions strengthen the links between remuneration policy and corporate performance?

- * Executive remuneration structures must be aligned to the purpose, values, strategy and long-term sustainable success of a company, taking into account pay and conditions elsewhere in the company.
- * Yes, involvement of directors in deciding their own remuneration, lesser dependence on market benchmarking methods and external consultants, and focusing on the company's performance along with benchmarking against the workforce of a company will likely strengthen the links between remuneration policy and corporate performance.

Q23: Do you agree that the proposed reporting changes around malus and claw back will result in an improvement in transparency?

Yes, the proposed amendments around malus (withholding of directors' remuneration) and claw back (recovery of directors' remuneration) provisions in the Code will provide greater transparency by providing visibility of the mechanism available, how and if companies are using it and what triggers such use.

Q24: Do you agree with the proposed changes to Provisions 40 and 41?

- * Yes

Q25: Should the reference to pay gaps and pay ratios be removed, or strengthened?

- * The reference to pay gap and pay ratios should be strengthened further to enable better governance and compliment the overall improvement that has been achieved till now.

Submitted by the Listed Funds Team - Apex Listed Companies Services (UK) Ltd

Submitted by the Listed Funds Team - Apex Listed Companies Services (UK) Ltd