

Corporate Governance Reform Team
Department for Business, Energy & Industrial Strategy
3rd Floor Spur 1,
1 Victoria Street,
London,
SW1H 0ET

16 February 2017

By e-mail: corporategovernance@beis.gov.uk

Dear Sirs

Green paper: Corporate governance reform

In response to the above we are writing to outline our views on the proposed reforms to corporate governance in the UK. We welcome the opportunity to work with you on how to address the public's concerns about business.

Effective corporate governance underpins long-term company performance. The inherent flexibility of the UK 'comply or explain' model allows for more demanding standards than those capable of being achieved through onerous legislative requirements. This has led to the UK having some of the highest standards of corporate governance in the world, which in turn makes the UK an attractive market for new investment. Whilst we have not answered the individual questions in the consultation as either: certain questions are best left to individual companies or other stakeholder groups; or we have comments which were not directly addressed, we have shaped our response around ensuring that the highest standards of corporate governance are maintained as is the UK's position as best in class.

Our overarching concern is that implementation in their current form may not necessarily provide an effective solution for achieving the underlying aim, that of repairing the UK public's trust in business. We welcome the recent government narrative around ensuring that the UK remains attractive for investment, as such any changes to UK corporate governance must ensure that UK, as a whole, and business remain globally competitive in the global capital markets.

The proposals are aimed at addressing corporate governance in the UK but for our members UK stakeholders are potentially only one of many global stakeholder groups. There is a risk that the view of the UK stakeholder may not, when considered across the organisation as whole, be reflective of that stakeholder group and therefore the effectiveness of what the Green Paper is aiming to achieve could be limited. Equally, giving undue prominence to any one stakeholder group above all others may have the unintended consequence of excluding the voice of some stakeholders, undermining the principles of section 172 of the Companies Act 2006.

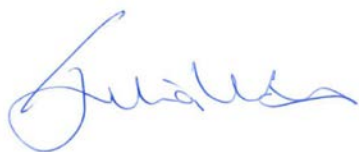
Who we are

The 100 Group of Finance Directors represents the views of the finance directors of FTSE 100 and several large UK private companies. Our member companies represent almost 90% of the market capitalisation of the UK FTSE 100 Index. Our aim is to contribute positively to the development of UK and international policy and practice on matters that affect our businesses, including taxation, financial reporting, corporate governance and capital market regulation. Whilst this letter expresses the views of The 100 Group of Finance Directors as a

whole, those views are not necessarily those of our individual members or their respective employers

Please feel free to contact us through the 100 Group's website, www.the100group.co.uk, should you wish to discuss our comments.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Julia Wilson', with a stylized, cursive script.

Julia Wilson

Chair

Investor Relations and Markets Committee

Section 1: Executive pay

The significant changes in landscape and requirements in this area (move from defined benefit to contributory pension schemes; requirement for an element of bonus to be linked to future performance), coupled with the complex reporting requirements, have not always achieved their original objectives, and transparency is being lost in the complexity of required disclosure. We acknowledge that public concerns about excessive executive pay is a key contributor to the fall in trust in business and want to work with government to find an effective solution whilst ensuring retention of talent (both current and for succession planning).

We would advise against further reporting requirements whether of pay ratios, disclosure of targets triggering bonus payments, or other any other recommendations unless this is coupled with a review of remuneration reporting requirements as a whole. The current reporting requirements are already overly complex and form an extensive part of the annual report. Simply adding more disclosure would not, in our opinion, achieve the aim of the proposals, nor would it aid understanding of remuneration structures. We would recommend that a review of the reporting requirements, alongside the FRC's "cutting the clutter" initiative, is undertaken. We believe this would lead to a simplified report which would enhance users' understanding of the remuneration policies applied, facilitating, where necessary, more effective challenge and greater accountability.

As the members of the 100 Group are the subjects of remuneration policy we recognise the potential for conflict and so have not sought to respond to the specific questions.

However, we believe that shareholders do have sufficient powers to hold companies to account on executive pay and performance via the triennial binding vote of the company's remuneration policy. Additionally, based on a review of the voting records at the AGMs of our members over the last three years, as published on their websites, it is clear that the majority of votes were cast in favour of the directors' remuneration reports, with over 80% of companies getting a 90%+ approval vote.

Finally, there is one specific point to note that is particularly relevant at this time. As global organisations we seek to attract and retain the best global talent, which is not necessarily based in the UK. Consequently, remuneration packages maybe denominated in currencies other than sterling and any depreciation in sterling would, therefore, result in a reported increase in remuneration for such executives, which may distort or misrepresent the underlying movements in such remuneration packages when included in prescriptive metrics. In order to ensure meaningful disclosure extensive narrative explanation would be required, adding to the complexity of remuneration reporting and the potential for unhelpful misinterpretations.

Section 2: Strengthening the employee, customer and wider stakeholder voice

We were pleased to see that the proposed reforms have moved away from mandating board positions to specific stakeholder groups. Whilst we recognise the intention of the original proposal, we believe the principle of a unitary board is fundamental to effective board performance and therefore to effective corporate governance.

In forming our response to this section of the proposed reforms we have engaged with a number of stakeholders and noted a number of alternative solutions such as: implementation of stakeholder panels below board level; implementation of a stewardship code for directors; extending the remit of the FRC to cover the whole of the annual report; extending comply or explain to the requirements of section 172 of the Companies Act 2006; inclusion of a strategic review as to how directors have discharged their duties specifically in relation to the requirements of section 172; and professionalising the role of a director.

We strongly recommend that the government convenes a working group to explore each of the above possibilities in depth before moving ahead with any proposals in this area, as we believe a number of the above have the potential to be an effective solution, however any implementation would need careful consideration.

It is unclear from the proposals how wide ranging the stakeholder voice is meant to be. The Green Paper is aimed at addressing corporate governance in the UK but, for our membership, UK stakeholders are one of many global stakeholder groups. For example: our members employ approximately 7% of the UK workforce, which means that the majority of the UK workforce is employed by other large businesses and SMEs. Additionally, for some of our members, the greater part of their workforce is comprised of non-UK employees. As such, specific board focus on UK employees may not represent the wider stakeholder group voice, when considered across the organisation as a whole, nor represent the concerns of the majority of the UK workforce which could therefore limit the effectiveness of what the Green Paper is aiming to achieve.

We would welcome the opportunity to discuss this, and possible solutions, further with you.

Section 3: Corporate governance in large, privately-held businesses

We welcome the government's proposals to extend the corporate governance framework to the UK's largest privately-held businesses. We believe this will go a long way in achieving the Green Paper's aims, as some of the most high profile failures have been in large private companies, and it is often assumed such companies are required to comply with the same governance standards as listed businesses due to their size.

However, we have concerns as to how this will be implemented for subsidiaries of Groups already applying the code. In order to comply with the code at a UK PLC level our members implement governance structures with which all subsidiaries, regardless of domicile, are required to comply. As such, capturing such companies would result only in increasing the reporting burden, without any substantive improvements to corporate governance in the UK.

We therefore recommend that subsidiaries of listed companies applying the Code, are either omitted from the proposed extension of compliance or exempt from the reporting requirements. We recognise that acknowledgement of such exemption would be beneficial and as such would recommend that any large privately-held company taking this exemption should include a disclosure to that effect in their annual report.

Other issues

The current UK approach of comply or explain provides a pragmatic combination of high standards and low burdens. Additionally, it has allowed the UK to attract investment at a higher rate than countries which have onerous legislative governance requirements.

We recommend that implementation of any additional reporting or regulation is considered alongside other government initiatives (such as Brexit, industrial strategy, gender pay) and against a global backdrop. Increasing regulation and reporting requirements whilst other countries are seeking to deregulate could reduce the attractiveness of the UK to both companies and investors. In a Brexit context this seems contrary to the objective of making the UK an attractive place to do business in and with.

We are concerned that the rate of increase in regulation could result in a focus on compliance, rather than providing a clear narrative of the reality, as reporting requirements overtake principles as is, in our opinion, the case with remuneration reporting.

Furthermore, we encourage BEIS to look at movements in other markets, such as the US, where Big Business is seen by many as the solution, as widening the requirements between markets does not allow business to have a coherent global voice.