

Paper 4.1 - Issued

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The Rt Hon Lord Peter Mandelson
Secretary of State for Business, Enterprise and Regulatory Reform
Department for Business, Enterprise & Regulatory Reform
1 Victoria Street
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6th April 2009

Dear Lord Mandelson

Regulatory Response the Credit Crisis

As agreed at our recent meeting, I am writing to set out The Hundred Group's views on an effective approach to the review and possible reform of business regulation in response to the credit crisis. Our views are confined here to the way in which regulation is approached rather than specific reforms.

The Hundred Group is a non political, not-for-profit organisation and our aim is to contribute positively to the development of UK and International policy and practice on matters that affect our businesses, for example taxation, financial reporting, corporate governance and capital market regulation. The Hundred Group represents the finance directors of the UK's largest companies, with membership drawn mainly from constituents of the FTSE100.

The Hundred Group believes that any review or reform of business regulation is likely to be made more effective by:

The use of existing regulatory bodies

There are a sufficient number of established regulators covering the key aspects of business regulation. Existing regulators have established capacity – people, systems and know-how – and they will be more familiar with the nature of the businesses which they seek to regulate. Establishing this sort of capacity typically takes several years. Any new review bodies (temporary or permanent) will suffer a substantial delay in establishing competent capacity. The establishment of new review bodies will also increase the risk of regulatory overlap and, therefore, the risk of unnecessary regulatory burden.

Co-ordination between the UK Government and Regulators

It would be beneficial if HMG / DBERR maintained a unified view of all regulatory reviews/reform and endeavoured to co-ordinate these initiatives. For example, we have three recent initiatives which have the potential to overlap: the FRC review of Governance; the Walker review of Governance in Banking and the Turner Review. The overall effect of Government coordination would be to raise awareness across government and regulatory agencies and reduce the risk of promoting overlapping initiatives.

Focussed Regulation

The Hundred Group believes that effective regulation requires regulatory focus on the most important issues. Over the past decade we have witnessed a substantial expansion of regulatory mandates. Key regulators (UK and international) have either been given mandates which are too broad or have expanded their mandates into areas which have little or no public interest or economic benefit (for example in the US the initial interpretation of Sarbanes Oxley exceeded the legislative intent). The adverse effects of this loss of focus are significant – it imposes excessive costs on business and, inevitably, undermines the quality and effectiveness of regulation in those areas where regulation is important. A lack of focus also increases the risk that important matters are deferred or overlooked altogether. In short, we see the need for regulators to prioritise their efforts so as to focus on first-order issues. We also believe that more focused regulation should help regulators to attract and retain high calibre professionals since regulatory budgets can be concentrated to good effect and professional staff will also be motivated by projects which are clearly important and relevant to all stakeholders.

In our view, both the FRC and IASB would benefit from a more focused agenda and we hope that the Turner Review will result, inter alia, in a highly focused agenda for the FSA. The Hundred Group maintains an active and constructive dialogue with a number of key UK and international regulators and we would be happy to discuss the subject of regulatory focus with DBERR in more detail.

Balanced stakeholder representation and consultation

Business regulation is vastly improved by having the right balance in stakeholder representation and consultation. In particular, regulators should ensure that they have adequate representation from practitioners and the businesses which are responsible for implementing regulations. We believe this can be improved without compromising the independence of regulators.

With respect to consultation, there is, of course, a close and important connection between regulatory co-ordination, regulatory focus and the quality of engagement by UK businesses. Regulatory overlap and/or a lack of focus tend to generate excessive consultation material on secondary and tertiary issues and this discourages engagement by relevant stakeholders.

The Hundred Group remains able and willing to engage with key UK and international regulators. We would be happy to ensure your department is kept up to date in this regard.

A measured and considered response

In the immediate wake of previous crises such as the Enron/WorldCom failures, we saw clear evidence of knee jerk regulation/legislation in jurisdictions outside the UK (the largely mechanical approach in Sarbanes-Oxley failed to deal with some of the more substantive governance and accounting issues). The Hundred Group is pleased that the UK Government has adopted a more measured approach to regulatory reform. We appreciate that Government and regulators face pressure to be seen to be doing something. We believe that Government and regulators can remain responsive to public concerns by clearly communicating what steps are planned – allowing time for a measured response. In the current credit crisis it is important that Government communication reflects a unified view of the various initiatives as noted above.

I trust these comments are useful. Please do not hesitate to contact me should any of the above require clarification

Yours sincerely,

Ashley Almanza

Chairman – The Hundred Group of Finance Directors