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1.19. “Outcome based” reporting on governance, means that when there is a problem, it has to be fixed. The repair route published so it does not repeat. FRC is bogged by “disciplinary”. Its fines block mandatory repair.

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2. 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?

2.1. No. Commercial ambitions are to act in the interests of shareholders. There are those locked into transition plans. Suppliers of funding will come after them (if they want to be a lead bank). This is not to evaluate whether that plan is optimal to save the planet and humanity. Self interest (ie interests of shareholders/ financiers/speculators / political interests) will prevail. This is seen in Alberta which has huge oil reserves, yet Canada banks come to UK to explore and exploit, via funding of same, with price set with reference to sales value of the outputs of the production company in the UK. These are complex transactions.

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

[Redacted]

Section 3 (change): board performance reviews (significant external commitments)

4. 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?

4.1. No. There is no such thing as board “performance reviews”. If a non exec is not performing he must go immediately. Executives are looked after under the arrangements a company has and which are not and should not be public. These are very personal matters.

Code 15 (directors’ commitments to other organisations)

5. 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?

5.1. “Non executives” are a serious risk to companies. They should be financially independent, bring business and introductions, and interest themselves in production of accounts and not just think they watch and comment on the real workers. They should not have more than one absolutely maximum two jobs.

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

6.1. There is no regulation. This area needs rework.

Principle I (diversity)

7. 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?

7.1. Diversity has no place in reporting. The market wants to know a company is headhunting and retaining the best people and the results.

Provision 24 succession planning and senior appointments

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

8.1. These are commercial issues, that the market can ask about and will be given in briefings. It is commercial and sensitive. Senior appointments are generally mooted to members before being made.

CGI

9. 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?

■ [REDACTED]



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

10.1. No. This area is statute, not policy.

Provisions 25 and 26 (minimum Standard for Audit Committees)

11. 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?

11.1. Audit Committee Standards was the subject of a Call in February 2023. FRC must publish all the replies it received, not censor some and publish others, especially as it champions transparency.

Audit Committees: narrative reporting where “not reserved for the board”

12. 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?

12.1. These issues are all reserved for the board. The audit committee has no separate standing.

Risk management and internal controls

13. 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?

13.1. Risk management and internal controls are distinct areas. Proportionality does not feature.

Dating declarations

14. 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?

14.1. The directors severally must maintain the books and records sufficient to ascertain the financial trading position at all times. If they sign on date XXX, they attest to the truth of the position as at date XXX.

Internal controls

15. 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?

15.1. No. Narrative is included in financial statements and has been since before the 1948 Companies Act.

Internal controls

16. 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?

16.1. Risk management should not be mixed up with internal controls.

17. 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?

17.1. These are three separate areas. In controls audits, all weaknesses must be addressed.

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

18.1. Internal controls audits are mandatory. Where they are not carried out, the default is line by line substantive auditing. An assurance report by someone other than the auditor, so the auditor "skimps" on his work is not acceptable.

Going concern basis of accounting

19. 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)?

19.1. An adverse report must be made where there is a going concern basis of accounting which is not met.

19.2. There are alternatives, eg break-up valuations.

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

20.1. No. They can talk generally about the market but it is for analysts to produce research not directors.

21. 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?

[REDACTED]

Remuneration

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

22.1. No. There is no direct correlation. Quoted price of quoted securities is market driven.

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

[REDACTED]

24. Q24: Do you agree with the proposed changes to Provisions 40 and 41?
- 24.1. Section needs rework.
25. Q25: Should the reference to pay gaps and pay ratios be removed, or strengthened?
- 25.1. These are not a relevant consideration. Remuneration is market driven.
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White Paper on artificial intelligence

26. Q26: Are there any areas of the Code which you consider require amendment or additional guidance, in support of the Government's White Paper on artificial intelligence?
- 26.1. The White Paper is not a useful starting point. AI represents existential risk to many organisations in many fields. The impact has not been evaluated. It cannot just be incorporated in any code.
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The witness thanks the FRC for the opportunity to contribute.

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