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Financial Regulation Strategy
HM Treasury
1 Horse Guards Road
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Dear Sir

A new approach to financial regulation

ICAEW welcomes the opportunity to comment on the paper *A new approach to financial regulation* published by HM Treasury in July 2010.

ICAEW operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council (FRC). As a world leading professional accountancy body, we provide leadership and practical support to over 134,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. We are a founding member of the Global Accounting Alliance with over 775,000 members worldwide.

Our comments focus on the markets and infrastructure section, and particularly on Question 17 which relates to the proposed merger of the UK Listing Authority (UKLA) with FRC as a first step towards creating a companies regulator under the Department for Business, Innovation and Skills. It is important when considering this proposal to be clear about the objectives of such a merger.

UKLA and FRC have distinct cultures and both command international respect. In particular, we believe that the FRC is widely regarded as performing its current role very well. However, the current regulatory and oversight functions of FRC and UKLA have different objectives and different approaches are needed to perform the functions. It is important, whatever the design of the regulatory architecture, that the various regulatory and oversight functions are able to take an approach appropriate to their situation. A number of concerns have been raised that moving UKLA to FRC might change the culture and approach of UKLA. We would be equally concerned if it changed the culture of FRC, which we believe is generally a cost-effective and successful regulator. From the perspective of the FRC's area of regulation, we do not believe that a case has been made either that change is necessary or that, in any event, it is appropriate to risk the organisation's culture and effectiveness by undertaking the change.

One suggested advantage of bringing UKLA under the auspices of FRC is that it would bring together the supervision of all information companies provide to markets, whether in listing documents or annual reports, as well as setting corporate governance rules. This advantage is, we

believe, overstated. The principal difference between UKLA and the FRC is that UKLA deals with more real time issues and is required to make market interventions when needed, whereas FRC tends to look at matters after the fact, often on a 'comply or explain' basis, and its actions can be addressed over a longer timeframe. These differences justify different approaches which may mean that there are few synergies between the two organisations.

A widely cited potential disadvantage of moving UKLA to FRC, rather than to the new Consumer Protection and Markets Authority (CPMA), is that it will split the work of the listing authority from the rest of markets regulation, and split primary and secondary market regulation, as well as the enforcement mechanisms and market abuse regulation. In truth, the advantages of the current integration of these aspects under the FSA regime may also be overstated. UKLA retains its own culture within the FSA and the markets division generally and UKLA, in particular, may be less integrated than other parts of the FSA. We note that the UKLA culture survived its relatively recent move from the London Stock Exchange to the FSA. A more significant risk in moving UKLA to FRC lies in the structural reform of European securities regulation. The new European Securities and Markets Authority (ESMA) will have increased powers over the development of prospectus and transparency directives. CPMA will have the UK's seat on ESMA and so such a move would probably weaken UKLA's influence over major international developments under its regulatory remit.

On balance, while we recognise that there may be advantages and disadvantages in UKLA sitting either under FRC or under CPMA with markets regulation, we are not convinced that a case has been made for changing UKLA's current alignment by moving it to FRC. We believe that changes of this nature should only be made where a clear benefit has been demonstrated. On that basis and given the overall architecture for reforming financial regulation set out by the Government, we would favour leaving UKLA with the rest of the FSA's current markets division in CPMA as this would represent the least significant change and would provide greatest stability. However, UKLA does need to retain a distinct approach to its functions than to other parts of the regulatory system, wherever it is located.

We are not clear as to what is intended for the suggested new companies' regulator. We are not aware of compelling evidence to suggest that such a new regulator is needed and look forward to further consultation on this matter, particularly if the proposal is intended to change significantly any of the responsibilities or approach of FRC, which may well have unintended and unwelcome consequences for the matters currently under its remit. One other concern over the proposal to create this new companies regulator is that increasing the scope of regulatory responsibilities tends to increase the volume of regulation and the costs of regulatory compliance for businesses, without necessarily improving quality.

Please contact me should you wish to discuss any of the points raised in this response. We would be very happy to meet your team to explain in more detail how we have formed our views.

Yours faithfully

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