

11 April 2006

ICAEW response: 26/06



Mr Chris Hodge
Corporate Governance Unit
Financial Reporting Council
Fifth Floor
Aldwych House
71-91 Aldwych
London WC2B 4HN

Dear Chris.

FRC consultation on possible amendments to the 2003 Combined Code

I have pleasure in submitting the response of the Institute of Chartered Accountants in England & Wales (ICAEW). Our detailed comments are provided in the appendix. We fully agree with three of the FRC's four proposed changes to the Code but have reservations about the proposal for information to be available on company websites only.

The ICAEW operates under a Royal Charter, working in the public interest, and is the largest professional accountancy body in Europe with over 127,000 members in business, practice, the public and voluntary sectors and academe.

In preparing this response we have taken account of the views of ICAEW members who have substantial experience as listed company directors, institutional investors and auditors.

If you wish to discuss our suggestions in further detail, please do not hesitate to contact Jonathan Hunt, Head of Corporate Governance (jonathan.hunt@icaew.co.uk) or myself.

Yours sincerely

Robert

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INVESTOR IN PEOPLE

Summary

We agree with three of the FRC's four proposed changes to the Code.

We strongly support the FRC's evidence gathering process, undertaken in late 2005, to identify the possible changes to the Code included in the current consultation paper.

The four matters covered in the FRC consultation paper

1. The remuneration committee

We agree that the company chairman should be able sit on the remuneration committee provided:

- he or she were considered to be independent at the time of appointment as chairman;
- the position is in addition to the minimum number of independent non-executive director members on the committee; and
- the company chairman should not be able to chair the remuneration committee.

We therefore agree with the text of the proposed amendments to Code provision B.2.1.

2. Votes withheld

We agree:

- that the Code should be amended to update the relevant Code provision that companies include a 'vote withheld' option on proxy appointment forms for the AGM;
- to the proposed amendment of section D.2 to provide shareholders voting by proxy with the option of withholding their vote, and the publication of details of proxies lodged at the AGM where votes are taken on a show of hands;
- with the proposed text to amend the Code.

3. Information available on company websites only

We acknowledge that use of the web by companies and investors has substantially increased since the Code was first published in 1998. We also believe that it is efficient to provide information on a company's website.

However, we believe that information should also be provided in hard copy if so requested by shareholders. Such requests are likely to come from smaller, private shareholders and may not number many requests in any one year. We believe that it is a fundamental right for shareholders to have information provided to them in hard copy if they so request.

We therefore recommend that the FRC does not make the suggested change to the Code.

4. Schedule C to the Code

The proposal to set out in Schedule C the disclosure requirements in the Listing Rules so that companies can find details of all the Combined Code's disclosure recommendations in one place is a pragmatic and sensible suggestion.

We therefore agree with the proposed amendment to Schedule C to the Code.

Other matters: audit committees

The issue of at least one member of the audit committee having 'recent and relevant financial experience' remains a concern to the Institute. Our longstanding position is that the audit committee as a whole should have, and have access to, recent and relevant experience to enable the committee to discharge its responsibilities.

We believe that:

- with an ever increasing volume of standards, regulation and law, it is now unrealistic to expect one individual to have all the relevant knowledge to properly discharge this increasingly onerous duty; and
- collective responsibility is more appropriate to the UK's general approach to corporate governance and the unitary board concept.

We acknowledge however that Article 39 of the European Commission's new 8th Directive appears to take the 'individual' approach, as does section 407 of the Sarbanes-Oxley Act in the US. We are also aware that there are safe harbour provisions available to individual members of audit committees in the US, whereas this is not the case in the UK.

We await with interest to see the DTI's proposals on how it will implement Article 39 into UK law. We trust that the FRC will urge the DTI to undertake a wide consultation on its proposals.