By email to: corporategovernance@beis.gov.uk

17 February 2017

Dear Sir or Madam

Consultation response: Corporate Governance Reform

This submission is made by PricewaterhouseCoopers LLP (PwC), the UK member firm of the PwC network. We believe the outcome of the current review of corporate governance is important to rebuilding public confidence in business. We adhere to the Financial Reporting Council's (FRC's) Audit Firm Governance Code, and in doing so, we strive to improve governance practices within our own organisation, as well as supporting our clients in working to improve their governance practices.

Whilst the views expressed in this document are our own, we have convened a series of roundtables with clients ranging from family owned firms, private equity backed businesses, to FTSE100 companies. This response is intended to provide our perspectives and insights relevant to this consultation, informed by those discussions.

We believe that the UK has a vibrant, effective and attractive corporate environment. The development of the UK's "comply or explain" corporate governance regime has, in our opinion, made a significant contribution to the operation and accountability of the unitary boards of UK companies, and has greatly enhanced the quality of discussion and decision making within publicly-listed companies. The flexibility and responsiveness of a principles-based approach make it an ideal vehicle for any future corporate governance change. The comply or explain regime, linked to the UK Corporate Governance Code for listed companies, has worked well and has enabled the UK to remain at the forefront of evolving good corporate governance, helping to make the UK an attractive place to invest.

The unitary board structure established under company law in the UK promotes the collective responsibility of directors for board decisions and requires boards, under the enlightened shareholder model, to have regard to stakeholder interests when making decisions. However, in our opinion there appears to be limited awareness of how this element of corporate law is applied in practice and, in particular, that the views of different stakeholders should be, and have been, brought to the board's attention and taken into account. We believe improving awareness and transparency in this area is achievable without additional legislation.

Any reform needs to be evolutionary and proportionate to be effective. It should be directed to the longer-term growth and prosperity of all UK companies and the need to build trust in business within society and address concerns about fairness and inequality, which is a significant thread running through the current proposals. Whilst we understand the reasoning behind the proposals, it is important that any change, if introduced, supports and enhances the existing governance infrastructure, and that any increase in the compliance workload is justified by an equivalent benefit.

We consider that the most effective way of delivering the change that is sought is to encourage companies to rebuild trust with their key stakeholders through clear, candid and comprehensive communication, backed up by appropriate board accountability. We would favour this approach over imposing significant additional regulatory requirements on companies and their shareholders at a key time for UK companies when the focus should be on growth, innovation and productivity.

Most, if not all, proposals made in the Green Paper could, if introduced, be effected, for listed companies, through the UK Corporate Governance Code (the Code) on a comply or explain basis. Rather than prescribing a specific approach, the Code could set out either principles which companies can apply, or provisions with which companies could comply in a way that best suits their circumstances or constitution. In our experience, Code-based approaches are more effective at changing the Board's mindset than regulation. As well as providing companies with flexibility over how any new requirements might be implemented, this would allow companies for which the provisions are less relevant to explain why they have decided to apply the principles of the Code in a different way.

The proposals concerning the governance of private companies could also be addressed via guidance, rather than legislation. This could then be adopted, as appropriate, by the diverse range of private businesses in the UK, in a way that is appropriate and proportionate depending on their size, constitution, geography or client based, and whether they already adhere to existing Codes or guidance.

Overall, we consider that a principles based approach to reform, via Codes or guidance, is most likely to respond effectively to the Government's agenda and also deliver an economic return, with minimum risk of unintended consequences.

Our detailed responses to the consultation questions and proposals are in the Appendix. In summary, our response identifies the following suggestions.

Executive Pay

We believe the current voting regime, which has only been in effect for just over three years, is working well, and provides an effective mechanism for shareholders to hold companies to account over executive pay.

If shareholder powers are to be strengthened, we suggest that consideration could be given to an escalation mechanism that focuses on companies losing shareholder votes, or gaining persistent low support, rather than a wholesale change. As a matter of principle, we do not support binding votes on pay outcomes, as we believe that any binding remuneration votes should be on policy.

We do not support the mandatory establishment of senior shareholder committees. In our experience, there is already extensive consultation with major investors on important matters, including executive pay.
We believe that there is merit in considering broadening the remuneration committee remit to have an oversight responsibility in relation to wider company pay policy and its link with strategy and culture, in the form of, for example, a fair pay report within the remuneration report. Consideration of how the company views and implements pay fairness could be part of this.

Disclosure of a CEO:median employee pay ratio is likely to be misleading and, even if published without a great deal of contextual information, misunderstood. Disclosures that explain the trend in pay differentials within the company would, in our opinion, be more meaningful than a CEO:median employee ratio.

In our opinion, shareholders have been influential in improving disclosure and increasing shareholding requirements in listed companies. We do not see the need for legislation in this respect. We believe that there would be merit in a significant re-write of the sections of the Code as they relate to executive pay. In particular, the rewrite should reflect the work of the Investment Association's Executive Remuneration Working Group and encourage the concept that, in the right circumstances, long-term shareholding can be a valid replacement for target-based plans.

Strengthening the stakeholder voice

All companies are required by section 172 of the Companies Act 2006 (the Act) to have regard to stakeholders as part of their decision making, and the vast majority of (if not all) businesses already engage with stakeholders as part of the ordinary course of business. We feel the provisions of section 172 as currently drafted provide a strong platform from which to introduce any improvements in this area. All large companies are required, in their annual strategic report, to report to members to enable them, amongst other things, to assess how directors have performed their duty under section 172. The Non-Financial Reporting Directive 2014 (implemented in the UK via the Company, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016) also requires all public interest entities to report, in their strategic reports, on material environmental and social information, employee matters, respect for human rights, and anti-corruption and bribery matters.

It is, therefore, our view that the legislative framework already requires stakeholder consideration at board level as well as related disclosures. However, there is a question of how section 172 can be enforced and there does need to be more awareness of the existence and the practical application of section 172; more can be done to promote understanding of this area of law. We believe that there could be a more consistent and transparent approach to how companies balance shareholder and stakeholder needs, what constitutes the long-term success of the company and how a company should report on such matters. This could be achieved by enhancing the FRC's existing Guidance on Strategic Reports to include guidance regarding the disclosures large companies (private and public) should make about the identification of key stakeholders; the mechanisms used to engage in a two way dialogue; and the outcome of that engagement on strategy and key decisions.

In addition, to encourage meaningful reporting and to enable the key messages to reach stakeholders, and other readers, a push for digitisation is also strongly encouraged; an approach we have taken ourselves.

Governance of private businesses

Many private companies already voluntarily adopt principles from the UK Corporate Governance Code, the Institute of Directors/ecoDa Corporate Governance Guidance and Principles for Unlisted Companies, the BVCA Governance Code or the QCA Corporate Governance Code, amongst others. On this basis, we feel that, given the enormous diversity of private businesses, the flexibility for those businesses to adopt the guidance (if any) they believe is most appropriate to them must be retained. We do not feel it would be appropriate to apply the full requirements of the UK Corporate Governance Code to private companies.

The Government must consider carefully the purpose of introducing a private business corporate governance framework, and whether this is distinct from its aim to increase stakeholder engagement. At present all large (private and public) companies are required to prepare a strategic report, the purpose of which is to inform members of the company and help them to assess how the directors have performed their duty under section 172 of the Act. The strategic report must also provide information about the business, including environmental factors and employee matters. As above, the quality of reporting in this area could be enhanced by updating the FRC's Strategic Report Guidance to encourage large private companies to summarise the governance practices they follow, as well as providing guidance regarding disclosures about the impact stakeholder engagement has had on strategic decision making.

We hope that our comments are helpful. Please do not hesitate to contact Tom Gosling (Executive Pay) on 020 7212 3973 or tom.gosling@pwc.com or Kate Elsdon (stakeholder voice and private companies) on 020 7212 5103 or kate.elsdon@pwc.com, if you would like to discuss our comments further.

Yours faithfully

For and on behalf of PricewaterhouseCoopers LLP

Tom Gosling and Kate Elsdon

Appendix

A: Executive Pay

Shareholder voting and other rights

Q1: Do shareholders need stronger powers to improve their ability to hold companies to account on executive pay and performance? If so, which of the options mentioned in the Green Paper would you support? Are there other options that should be considered?

We believe the current voting regime works well, with the combination of triennial policy votes and annual advisory votes providing an effective mechanism for shareholders to impose market disciplines on pay.

The regime has had three clear benefits. First, since 2013, shareholders have been able to drive a number of changes in policy across the market, including limiting sign-on packages, restraining salary increases to, in general, no more than inflation or the wider workforce, lengthening LTIP holding periods, and radically improving bonus target disclosure. Second, the existence of a legally binding policy framework has helped non-executive directors to resist executive demands in high pressure situations such as recruitment, retention, and motivation. Finally, the triennial policy cycle has helped to reduce "tinkering" with pay plans and has embedded the restraint in executive pay quantum that we have seen since the financial crisis.

Although the annual vote is advisory and, therefore, by definition not binding, most companies respond to low votes. Since 2013, of those companies getting more than a 20% vote against, three quarters increased their vote to an average of 94% a year later, showing a full response to shareholder concerns. So the system operates effectively as a feedback loop (and with 2017 being the third anniversary of the first votes, we are only just getting to the end of the first cycle under that feedback loop).

Evidence shows that a very small percentage of companies (2% to 3%) either lose the annual vote or get persistent votes above 20% against. Any policy response should be proportionate to the size of the problem and focussed on these companies.

While the current system works well in our view, we understand the need to build public confidence that investor views cannot be ignored. However, if change is to be made in this area, we suggest that consideration be given to an "escalation" mechanism that penalises "severe or repeat instances". It should be noted that shareholders already have an escalation mechanism that has not yet been used to any great degree: the annual election of directors. A number of major shareholders and proxy agencies have recently stated that they plan to use the vote against the Chair of Remuneration Committee in the case of a severe or repeated failure to take account of investor feedback. We believe that there is a strong case for letting market practice develop in this area, and reviewing practice and effectiveness in two to three years' time.

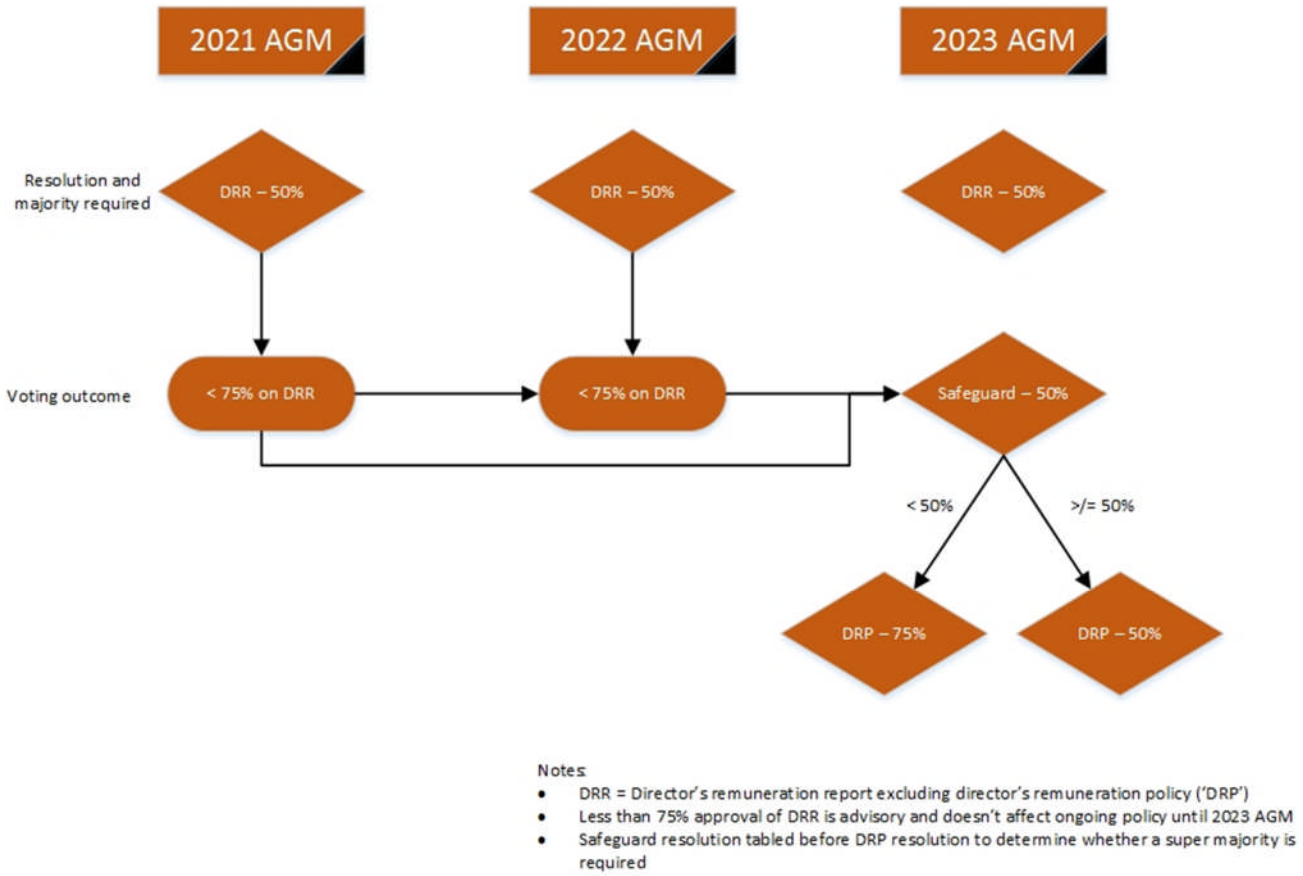
If a change to the voting requirements is felt to be required, this could take the following form: if a company loses or receives two consecutive significant votes against the remuneration report (<75% support), it could be required to seek a binding vote on policy at the next AGM and be required to seek an enhanced 75% majority. This is a higher level of support than is currently required for a company that has had an overall negative vote in one year, where a simple majority is the requirement.

The logic here is that if the company has not retained investor confidence in how it implements its existing policy, it should be required to bring that policy back to shareholders and secure a higher level of support, which may then require a tighter drafting of the future policy.

In our opinion, it would not be appropriate to enable a minority of shareholders to exercise disproportionate or vexatious influence over a company on a pay matter. In particular, this may be the case with small and medium sized companies with dominant shareholders.

Therefore, one approach would be to provide in the Code (on a "comply or explain" basis) that, where a company loses the vote, or receives two consecutive <75% votes, on its remuneration report, it should bring forward a binding vote on policy at the next AGM with a requirement for a supermajority of 75%. The ability to use the "comply or explain" facility would avoid the unintended consequences that might apply in small companies, or ones with a single dominant shareholder, while giving investors in larger companies the ability to exert greater pressure in the extreme cases.

If the changes were adopted through primary legislation (S439A), then a mechanism would be required to address the possible risks associated with a "supermajority" vote on remuneration being used by a minority to exercise disproportionate or vexatious influence. This could be achieved by introducing a "safeguard" vote at the AGM where the Policy vote takes place, by which a simple majority of shareholders could disapply the requirement for a supermajority. This is illustrated in the diagram below.



The complexity of this approach supports the argument for a Code-based adoption. This could fall within a section of the Code providing greater specificity on how companies should engage with shareholders on pay.

We are not suggesting under any circumstances a binding vote on pay outcomes. This would have a number of practical difficulties and potential unintended consequences: the vote could only be on a very limited subset of the remuneration committee's decisions; shareholders may be less inclined to vote against a resolution on outcomes, given the binary consequences; the ability of boards to strike contracts in good faith with management would be undermined; yet more focus would be placed on remuneration as part of engagement, which shareholders may not be equipped to undertake. However, we have a more fundamental concern about binding votes on outcomes, in that it crosses a line that demarcates the responsibility of boards vis a vis shareholders, and runs the risk of undermining the role of the independent board. Therefore, as a matter of principle, we believe that binding remuneration votes should be on policy rather than implementation of that policy.

However, none of these measures will have an impact without a willingness on the part of institutional investors, and proxy agencies (which are in a position to influence the voting of a large proportion of the smaller or overseas institutions), to enter into dialogue with companies on remuneration. For the system to be effective, without the need for punitive sanctions, all major investors need to be prepared to engage with companies at an early stage of the remuneration determination process.

Shareholder engagement on pay

Q2: Does more need to be done to encourage institutional and retail investors to make full use of their existing and any new voting powers on pay? Do you support any of the options mentioned? Are there other ideas that should be considered?

We agree that mandatory disclosure of fund managers' and proxy advisers' voting records could improve their voting practice. One option would be for the Stewardship Code requirement (for investors and proxy advisers to comply or explain whether they have disclosed their voting records) to be a legal requirement. In practice an increasing number of investors are voluntarily adopting this practice.

We believe that the primary mechanism for improving shareholder engagement would be to continue and strengthen the FRC's existing work on the Stewardship Code, and to build upon the work commenced by the Investor Forum in providing a platform for co-ordinated engagement activity in the UK market.

In the near future, technology is likely to enable fund providers to offer retail investors the chance to vote shares directly at low cost. However, we do not believe that the quality of stewardship will necessarily be increased by such an initiative. In practice many retail investors hold funds that themselves invest in hundreds of shares. It is difficult to see how the votes of those retail investors would systematically improve the quality of well-informed engagement across the market.

We do not support the mandatory establishment of senior shareholder committees. In practice, companies already engage extensively with top investors on key issues, including executive pay. Shareholder committees have been operated in countries with very different backgrounds, governance cultures, and market structures compared with the UK. There is the potential for significant unforeseen consequences of introducing a model in the UK, and we do not believe that the case has been made for such a major change.

The role of the Remuneration Committee

Q3: Do steps need to be taken to improve the effectiveness of remuneration committees, and their advisers, in particular to encourage them to engage more effectively with shareholder and employee views before developing pay policies? Do you support any of the options set out in the Green Paper? Are there any other options you want to suggest?

Most companies already consult with shareholders when determining a new executive pay policy, although in our experience consultation with employees is less prevalent. Indeed, the sections of the 2013 directors' remuneration reporting regime that relate to wider workforce pay and conditions, and relative pay movements, have been disappointing in terms of their impact.

We believe that there is merit in considering broadening the remuneration committee remit to have an oversight responsibility in relation to wider company pay policy, and its link with strategy and culture, in the form of, for example, a Fair Pay Report within the remuneration report. Consideration of how the company views and implements pay fairness could be part of this.

There is also a case for setting an expectation of undertaking engagement with employees on remuneration. A three pronged approach of broadened remuneration committee remit, disclosure in annual reports and engagement could be very effective in bringing about change. However, the approach to engagement would need to be very flexibly defined to enable companies to work through existing consultation mechanisms. In particular, in global companies, employee engagement is predominantly locally driven, reflecting local concerns and regulation. Any approach should be aligned with the company's approach to stakeholder voice more widely.

While some of the disclosure requirements in the remuneration report could be the subject of regulation, the approach to remuneration committee remit and engagement should, in our opinion, be Code based.

We see the merit in providing that remuneration committee chairs should have a minimum period of remuneration committee experience, but we would not advocate requiring a chair to have previously served on a specific company remuneration committee. We view the experience gained in managing remuneration in the relevant listed environment as being the primary objective; we also note that there may, with smaller companies (or companies with fewer non-executive directors), be practical difficulties in fulfilling a specific company experience requirement.

As an alternative, the remuneration committee provisions in the Code, which are in the course of being redrafted, could specify recent and relevant experience (e.g. on the remuneration committee of a listed company or otherwise) as a prerequisite for becoming chair of the remuneration committee. Any changes in this respect should be inserted as provisions into the Code for adoption on a comply or explain basis.

Transparency in Executive Pay

Q4: Should a new pay ratio reporting requirement be introduced? If so, what form of reporting would be most useful? How can misleading interpretations and inappropriate comparisons (for example, between companies in different sectors) be avoided? Would other measures be more effective?

A CEO:median employee pay ratio is very problematic and likely to be highly misleading. A ratio gives the false impression that it can be compared across diverse organisations and sectors. If the CEO figure is based on the single figure of remuneration, it will be volatile (reflecting the extent to which annual and long-term incentive performance targets are met). We believe that using pay ratios could further undermine trust in businesses if they are taken at face value, rather than encouraging an informed debate about pay practices.

However, we believe that there is a case for setting up a disclosure that encourages companies to explain the trend in pay differentials within the company. The existing requirement to disclose the CEO and average employee increases (in each of salary, benefits and bonus) could be replaced with a disclosure of the maximum and actual CEO pay and average pay of a representative wider workforce population, over a ten year period. This could be graphically displayed, rebased to 100 at the start of the period, to show trend analysis of the relationship between total CEO and median employee pay over a ten year period. This would create a context for companies to explain any systematic divergence, and would avoid the problems of incomparability and misleading information that pay ratios might provide. Companies would be expected to explain voluntarily what the trends show, and how these inform the remuneration committee's decision-making. Those explanations will be far more valuable than the ratio.

Q5: Should the existing qualified requirements to disclose the performance targets that trigger annual bonus payments be strengthened? How could this be done without compromising commercial confidentiality? Do you support any of the options outlined in the Green Paper? Do you have any other suggestions?

Investor pressure has been effective in improving disclosure in this area. In 2015/16 remuneration reports, more than 50% of companies in the FTSE 350 provided full disclosure of all targets for bonus payments and a further approximately 25% of companies disclosed at least a central target for financial metrics. The Investment Association's voting advisory service (IVIS) is issuing negative voting recommendations for companies that are not providing adequate disclosure in this context. We do not see the need for, or believe that there will be any benefit from, further regulatory change in this area.

Q6: How should long-term incentive plans be better aligned with the long-term interests of quoted companies and shareholders? Should holding periods be increased from a minimum of three years to a minimum of five years for share options awarded to executives?

It is critical that incentives are designed to support business strategy and business needs. The types of business and the strategies they adopt mean that specifying particular time periods for plans or the structure of plans is potentially counter-productive. One of the issues with the current system is the majority of companies following a single design which is not always sufficiently or effectively aligned to strategy or business needs.

We believe that, regardless of the design of the incentives, a key objectives must be to support the delivery of high levels of shareholdings for executives, as this is most likely to deliver the greatest long-term alignment with shareholders.

We consider that companies should have flexibility to align the performance period for long-term incentives with the company's business cycle and associated strategic plans. In many businesses, setting or calibrating performance targets over a three or more year period is already challenging. We also believe that it may be preferable for some businesses to place less weight on target-based incentives and more focus on high levels of shareholding over long periods. Thus for some companies, having restricted stock as part of the package, or higher fixed pay delivered in shares held for the long-term, may be the better approach.

The Investment Association Executive Remuneration Working Group highlighted a number of these issues and argued for more flexibility in pay design, and the opportunity for simpler designs. A number of institutional investors have stated similar views. However, the balance of investor opinion is still biased towards heavy use of

target based incentives, with very little variation in design to meet company strategy and business needs. This continues to be challenging for companies introducing, in particular, non standard incentive plans, restricted stock or rebalancing towards fixed pay paid in shares.

We do not believe that there is a one-size-fits-all model that policy makers should be encouraging. However, we would favour removing impediments to more relevant plans tailored to company business strategy. A helpful development would be a rewrite of Schedule A to the Code to reflect the diversity of shareholder views and the developments in the debate in recent years, particularly the work of the Investment Association, Executive Remuneration Working Group. This might include a recognition of the importance of packages leading to high and long-term levels of shareholding, and a recognition that, in the right circumstances, this could be a partial or complete alternative for creating alignment than target-driven plans.

B: Strengthening the employee, customer and wider stakeholder voice

Q7: How can the way in which the interests of employees, customers and wider stakeholders are taken into account at board level in large UK companies be strengthened? Are there any existing examples of good practice that you would like to draw to our attention? Which, if any, of the options (or combination of options) described in the Green Paper would you support? Please explain your reasons.

All companies are required by section 172 of the Companies Act 2006 (the "Act") to promote the success of the company for the benefit of its members as a whole, whilst having regard to stakeholder groups including employees, suppliers, and the community. Given the economic interests and risks shareholders take when investing in a company, we believe this to be the right balance between shareholder and stakeholder interests. In addition it should be recognised that there is specific legislation already in place to protect the interests of stakeholders, whether through employment law, consumer rights, or regulators such as the Pensions Regulator and the FCA/PRA.

Notwithstanding the requirements of the Act, many businesses already actively engage with stakeholders, as it is recognised that this makes good business sense, and it is an area where value can be created and sustained. We believe there is fundamental alignment of shareholder and other stakeholder interests, especially when considering the long term success of the company. Customer satisfaction surveys, employee forums and engagement programmes, trade union representatives and procurement interaction with suppliers are all commonplace. However, practice does vary across different sectors, countries and type of company, which is why maintaining flexibility for businesses to engage with stakeholders in a way that is appropriate for them is, in our opinion, critical.

The extent to which companies are already considering stakeholders as part of their day to day decision making was demonstrated in our 2016 Global Investor Survey[1], which compared the views of investors and CEOs in response to the question "*the purpose of the company is to create value for…?*". Whilst the most popular response from investors was "shareholders", CEOs ranked shareholders fourth, behind customers, society, and the business itself. Similarly, when rating stakeholders in terms of their importance when setting strategy, investors named shareholders third, behind customers and competitors, whilst CEOs rated shareholders the sixth most important, behind customers, regulators, competitors, employees and suppliers.

However, there is a question of how section 172 can be enforced; it seems there is little awareness of the ways in which companies engage with stakeholders and the impact that engagement has on decision making, so there is more to be done to raise awareness of the existence and the practical application of section 172. For this reason, of the options described in the Green Paper, we would support option (iv), i.e. strengthening reporting requirements related to stakeholder engagement. Individual companies would then be free to decide on the most appropriate stakeholder engagement mechanism, which could be one of the other options included in the Green Paper; e.g. the stakeholder advisory panel or appointing employee or customer representatives to the board, or others, including, for example, sustainability committees that focus on the long-term growth of the company, in a way that fits with company specific culture, purpose and values.

Option (i), i.e. creating stakeholder advisory panels, option (ii), i.e. designating existing non-executive directors to ensure that the voices of key interested groups, especially that of employees, are being heard at board level, and option (iii), i.e. appointing individual stakeholder representatives to company boards, are difficult to reconcile with the concept of the unitary board. In addition, option (ii) carries significant time and cost implications for non-executive directors, and option (iii) involves more practical issues such as identifying

[1] http://www.pwc.com/gx/en/ceo-agenda/ceosurvey/2016/investor-survey.html

suitable individuals to represent a particular stakeholder group. Ensuring that the employee voice is heard at board level is a role for the whole board and we are supportive of the statement in the Green Paper confirming that there is no proposal to mandate the direct appointment of employees or other interested parties to company boards. Executive directors engage with employees as part of their day to day work and non-executive directors are already encouraged to conduct site visits as part of their role, and we would expect this to include employee engagement, with all directors feeding observations back to the board room. That said, as above, these remain options that companies could adopt, should they so choose.

Large and medium sized companies (as defined by the Companies Act 2006) and partnerships are already required, within their annual strategic reports, to report to members to allow them to assess how the directors have met the stakeholder engagement requirements of section 172 and include information relating to environmental and employee matters, as well as supplier payment policies. In addition, public interest entities are required to report on material social information, respect for human rights, and anti-corruption and bribery matters under the Company, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 ("NFR").

It is, therefore, our view that the legislative framework already requires stakeholder consideration at board level as well as related disclosures. However, we recognise that the quality of that reporting, whilst improving, is still mixed and believe that there could be a more consistent and transparent approach to how companies balance shareholder and stakeholder needs; what constitutes the long-term success of the company; and how they report on such matters.

Any enhanced reporting requirements would, therefore, ideally be aligned with the existing strategic report requirements (including NFR) and focussed on describing how boards of large companies have engaged with stakeholders on key issues. The reporting requirement could include a statement on how the board has considered stakeholder groups during the course of its decision making during the year, and the way in which the board has encouraged and empowered stakeholders to engage with the board and the company. In our opinion, the key point is to encourage disclosure that focuses not just on the process, but rather the impact stakeholder engagement has had on strategic decisions. For example: the identification of key stakeholders; the mechanisms used to engage in a two way dialogue; and the outcome of that engagement on strategy and key decisions. This requirement could be introduced to the FRC's existing Strategic Report Guidance, being the non-mandatory guidance supporting the legal requirements of the strategic report. To enable consistency of reporting, we would recommend that this guidance defines what the "long term success of the company" could mean, and what materiality thresholds should be considered.

To encourage meaningful reporting and to enable the key messages to reach stakeholders, and other readers, a push for digitisation is also strongly encouraged. In 2015 PwC decided to go fully digital for its Annual Report (published voluntarily alongside our financial statements). The objective behind this was to re-establish our audience reach, engaging people in formats that they prefer, and to communicate our messages more clearly. Unlike previous annual reports, which were published as a predominantly text-based PDF, the 2015 report included videos, infographics, animations and one data explorer (used to communicate messages about workforce make-up). Our own experience demonstrates that taking a continuously innovative, and relevant, approach to the way an entity communicates with its stakeholders can boost engagement and accessibility. In its first week, the 2015 Annual Report secured more page visits than in the entire year of our 2014 report, and the report was shared more on social media than ever before, helping us to reach a wider audience and increasing awareness of our brand and purpose. We are also tracking data on which pages of the site people are spending the most time on, so that we can make sure our reports stay relevant and ensure that stakeholders are provided with information of interest to them. If option (iv) is to be pursued, this approach could prove beneficial to promoting awareness of the wide ranges of mechanisms through which businesses are engaging with their stakeholders.

Through our own reporting experience and through our Building Public Trust Awards[2], we are encouraging other businesses to think more creatively about their own reporting. During the roundtables we held with clients, we heard many examples of good stakeholder engagement, ranging from NED engagement, employee forums, procurement programmes, customer panels and sustainability committees - and we are supportive of high quality reporting in these areas. This year our Building Public Trust Awards saw increased recognition from companies of the importance of stakeholders in how they communicate their strategy, business model and risks; reflected in the selection of the shortlist and winning companies, details of whom can be found here[3].

[2] http://www.pwc.co.uk/build-public-trust/the-building-public-trust-in-corporate-reporting-awards.html

[3] http://www.pwc.co.uk/build-public-trust/the-building-public-trust-in-corporate-reporting-awards/corporate-reporting-award-winners-2016.html

Q8: Which type of company do you think should be the focus for any steps to strengthen the stakeholder voice? Should there be an employee number or other size threshold?

On the basis that strengthening reporting requirements (as above) is used as the mechanism through which to increase, or raise awareness of existing stakeholder engagement, the focus of any steps should be aligned with existing reporting requirements and related thresholds. All large companies, as defined by the Companies Act 2006, which combines financial and employee based thresholds, are required to prepare an annual strategic report, the purpose of which is to "inform members of the company and help them to assess how the directors have performed their duty under section 172 of the Act". Given that s172 requires directors to have regard to stakeholder interests, the FRC's Strategic Report Guidance could be updated to include guidance for large companies on reporting how they have proactively engaged with stakeholders, and encouraged and empowered stakeholders to contribute to the board's thinking on the company's purpose and vision. This would capture both listed and large private companies.

Q9: How should reform be taken forward? Should a legislative, code-based or voluntary approach be used to drive change? Please explain your reasons, including any evidence on likely costs and benefits.

As far as is possible, we suggest that any reforms take a market-led voluntary approach. As above, the majority of companies are engaging with and listening to stakeholders as part of the normal course of business, but given the vast range of size, nature and ownership structure of UK businesses, care must be taken not to stifle innovation or discourage inward investment by introducing further mandatory legislation. Existing legislation and guidance already provide a strong platform from which to strengthen the stakeholder voice, via voluntarily followed guidance that encourages high quality and meaningful reporting.

To further enhance reporting we recommend that companies make better use of digital platforms. Social media is providing an increasingly effective challenge to corporate behaviour, and companies are devoting a growing amount of energy and resources in communicating with a wide range of stakeholders, including customers, and are quickly aware of any social media criticism of their behaviour. We believe that harnessing digital reporting of transparent data (thus empowering the public) is critical to any meaningful reform and will enable and encourage efficient market principles to regulate corporate behaviour.

C: Corporate governance in large privately-held businesses

Q10: What is your view of the case for strengthening the corporate governance framework for the UK's largest, privately-held businesses? What do you see as the benefits for doing so? What are the risks to be considered? Are there any existing examples of good practice in privately-held businesses that you would like to draw to our attention?

Private businesses represent a significant part of the UK economy, consisting of a vast range of different business models and business scale. Many private companies already voluntarily adopt principles from the UK Corporate Governance Code, the Institute of Directors/ecoDa Corporate Governance Guidance and Principles for Unlisted Companies", the BVCA Governance Handbook or the QCA Corporate Governance Code, amongst others. We are also aware that the FRC has indicated a willingness to develop a code or guidance for large private companies. On the basis that private companies do not have the same dispersed ownership or separation of management and ownership structure of listed companies and given the enormous diversity of private businesses, we feel the flexibility for those businesses to adopt the guidance (if any) they believe is most appropriate to them must be retained. We do not feel it would be appropriate, or practical, to simply apply the existing UK Corporate Governance Code to private companies, for example, who would monitor or enforce the reporting of the comply or explain principles in the same way shareholders do for listed companies?

In our opinion, any proposed change to the corporate governance framework for private companies must reflect the diversity of that community, and the fact they do not have the same dispersed ownership model and separation of ownership and management as listed companies, and appropriate thresholds should prevent universal application of new requirements to private companies. Many private companies have chosen to remain privately held for good reasons, including the flexible regulatory framework that exists, and it is notable that in 2016 the number of companies delisting from the London Stock Exchange outweighed those choosing to list. Care must be taken not to impose a disproportionate burden on private companies, discourage investment to the UK, and stifle innovation through well-intentioned but unnecessary increased administrative requirements.

The Government must consider carefully the purpose of introducing a private business corporate governance framework, and whether this is distinct from its aim to increase stakeholder engagement. To raise awareness of the governance practices already adopted by large private companies, the authors of existing corporate governance guidance for private companies could be encouraged to review their guidance and include a recommendation that companies summarise the corporate governance practices followed, state the framework that has been applied, and disclose how boards have identified and engaged with stakeholders. Similarly, as per question 7 above, the existing Strategic Report Guidance (which applies to large private companies) could provide a platform for encouraging greater transparency, and therefore awareness, of the governance practices adopted by large private companies.

Family business models provide a good example of how to engage effectively with stakeholders through a Family Council which helps to maintain transparency and engagement between the business and the family stakeholders. Typically, in our experience, successful family businesses will define and document the objectives and interests of the family in a constitution, which will include individuals who may not be shareholders, but are seen as stakeholders. They will create documents, such as family constitutions, to clearly reflect the objectives of the family, which then guides the shareholders and board on the management of the company, and can influence decision-making.

Q11: If you think that the corporate governance framework should be strengthened for the largest privately-held businesses, which businesses should be in scope? Where should any size threshold be set?

Similarly to our response to question 7, we would advocate using the existing strategic report legislation (and related thresholds), and more specifically the associated FRC Guidance on Strategic Reports, as the basis for any corporate governance reforms for large privately held companies. This would leave private companies free to follow, should they choose, the Code/guidance they believe is most appropriate to their business model and to include a statement to that effect in their strategic report.

It is not clear from the consultation the extent to which these proposals would apply to subsidiaries of listed companies (UK or overseas based). We would therefore recommend that there be an exemption, or ability to cross refer to the parent company disclosures, for wholly owned subsidiaries of UK listed companies and those resident in a comparable jurisdiction.

Q12: If you think that strengthening is needed how should this be achieved? Should legislation be used or would a voluntary approach be preferable? How could compliance be monitored?

We would advocate a voluntary approach to any reform of large private company governance, and feel the focus of any reform should be on guidance related to disclosure of the governance practices adopted by companies, including stakeholder engagement processes.

Given the vastly different ownership models and the wide diversity of private businesses, we believe it would be inappropriate to apply the existing UK Corporate Governance Code to private companies.

The existing guidance/voluntary codes for private businesses have taken the principles of good governance that are most relevant for private companies, such as: the need for a balanced board, with an independent non-executive presence; effective board and committee induction and training programmes, with regular board and committee evaluations; and, via better reporting, a presentation of a fair, balanced and understandable assessment of the company's performance, position and prospects and of how the directors have met their obligation under section 172 of the Act.

The Chairman and Company Secretary both play a key role in good governance of a company, overseeing and advising on governance arrangements and compliance with those. The Act abolished the need for private businesses to have a company secretary, but many private companies still choose to appoint someone to that role. Private companies could be required, as part of the updated Strategic Report Guidance (see question 11), to explain where oversight of a company's corporate governance arrangements sits.

Q13: Should non-financial reporting requirements in the future be applied on the basis of a size threshold rather than based on the legal form of a business?

Yes, please see our response to questions 10 - 12 above and the use of the existing strategic report requirements and related thresholds, supplemented by enhanced provisions within the FRC's Guidance on Strategic Reports, applicable to large private companies. However, the issue of to whom private companies are reporting must also be considered. Whilst all stakeholders may read the strategic report, the number that actually do so must be balanced with the time, cost and effort expended in preparing this report. As such, alternative methods of non-financial reporting should be considered, whether website based, and/or through social media.

D: Other Issues

Q14: Is the current corporate governance framework in the UK providing the right combination of high standards and low burdens? Apart from the issues addressed specifically in this Green Paper can you suggest any other improvements to the framework?

We believe the current framework is fit for purpose. In our opinion, the key area for improvement is transparency and meaningful reporting around how companies (listed and large private) are applying that framework. This need not be formal reporting however, it could be a combination of formal (i.e. annual reports) and website, social media, stakeholder committees or panels and internal (i.e. intranet) communication.

In some cases, improvement may also be achieved through adherence to existing best practice, as set out in the frequently reviewed and updated framework that already exists.

There are a myriad of reporting requirements, each with different thresholds (Companies Act, Modern Slavery Act, Gender Pay Reporting Regulations, for example). As part of the consideration of any reforms, we would encourage a review and, if possible, standardisation of the thresholds at which the various reporting requirements apply. This would represent a move towards deregulation and simplification.

Finally, when considering the implementation of any corporate governance reforms, there must be clarity as to what problem is being addressed. If piecemeal updates are continually made to either the Act, the Code, or the related guidance, in reaction to specific and isolated incidents of poor governance, there is a risk that the essence of the UK's principles based approach to corporate governance may be eroded. Rather than focussing on individual perceived issues, perhaps the focus is better turned to encouraging long-termism more generally, which will naturally lead to improvements in other areas.