

## Response from David Challen

Here are my comments on your consultation document. First, some general points:

1. I think you should avoid prescriptive proposals applying indiscriminately to all companies or individuals. Where there are issues in which there is a temptation to make rules (e.g. the number of directorships an individual should hold) I think you should rely on a full airing of the topic in your report plus a requirement for disclosure. In that way people can assess individual cases on their merits and plan for change if they feel it is necessary armed with the full facts.
2. I agree with Hugh Stevenson's article in yesterday's FT. The potential dwindling of the supply of good people willing to do the job is the biggest threat to our current system.
3. Overall I think our system works pretty well within the limitations of human frailty and I incline to an "If it ain't broke ... " point of view. You may feel pressure to produce a tome – you will get vocal support if you resist it.

Specific comments on some of the itemized matters in your document are:

- A. As above I think the model we have in most mature UK quoted companies is sound.
- A.7 Except in cases where the independence of the Chairman is in doubt I have not seen the advantage of creating yet another distinction.
- A.8 See Hugh Stevenson

In principal I think it is desirable for the board to feel that it is a unified entity and not one composed of two groups (executive and non-executive), even though the scrutinising role of the non-executives is obvious to everyone. Nevertheless I think it is important for the non-executives to have opportunities to meet separately from time to time. In some companies this is resisted as it is felt to jeopardize the sense of board unity. If such meetings are seen as best practice and are routine it ceases to be a major issue. On the other hand if meetings are only convened in times of crisis they become clandestine and divisive.

- B. Best candidates are independently minded team players, not afraid to ask dumb questions.
- B.13 There are many good people who, I suspect, never receive consideration because they are not already in the magic circle. In my own field, I see investment bankers with a great deal of experience in advising boards and seeing boards in action who could enhance a board – and gain a great deal themselves in the process. This is

no doubt true in other fields (the corporates, law, accounting, management consultancy, etc.). I suspect people think the institutional investors want safe, recognized names which makes it difficult to expand the pool. Some encouragement to nomination committees to think more widely would be welcome.

- B.14 In some cases clearly not. But the risk of personal liability cannot be dealt with by a modest increase in fees, hence ...
- B.15 See Hugh Stevenson
- C. Broadly all right as it is.
- C.16 PIRC definitions of independence are foolish and foolishly applied.
- C.18 There is a current risk that too much will be expected of Audit Committees. Non-executives can only deal with what they are told and what they ask about. The Audit Committee is a valuable check and an important forum where sensitive audit judgments can be made independently. It cannot carry ultimate responsibility.
- C.22 This is at its most difficult when a CEO imposes collective responsibility on executives so that their earlier debates amongst themselves are not exposed to the non-executives. Thus, doubts which non-executives may feel and which may in fact echo views held by some executive directors, may not be encouraged to surface.
- D. Up to the shareholders to initiate if they want to. The Board should clearly be responsive if they do. However bilateral lobbying between shareholders and individual directors is probably not generally helpful (nor between directors and advisers) unless it is the only way to get a message through. Otherwise it may result in factionalism on the board rather than open deliberation of issues.
- E. Induction valuable.
- G. Have not seen a better model elsewhere – generally worse.