

30 September 2009

Sir David Walker
HM Treasury
London
SW1A 2HQ

Dear Sir David

A REVIEW OF CORPORATE GOVERNANCE IN UK BANKS AND OTHER FINANCIAL INDUSTRY ENTITIES

The purpose of this letter is to suggest a means by which three of the Recommendations made in your Report dated 16 July 2009 might be addressed. The three Recommendations are:

- 1 To ensure that non executive directors have the knowledge and understanding of the business to enable them to contribute effectively, a BOFI board should provide thematic awareness sessions on a regular basis and each non executive director should be provided with a substantive personalised approach to induction, training and development to be reviewed annually with the chairman.*
- 2 A BOFI board should provide for dedicated support for non executive directors on any matter relevant to the business on which they require advice separate from or additional to that available in the normal board process*
- 3 Non executive directors on BOFI boards should be expected to give greater time commitment than has been normal in the past. A minimum expected time commitment of 30 to 36 days in a major bank board should be clearly indicated in letters of appointment and will in some cases limit the capacity of the non executive director to retain or assume board responsibilities elsewhere.*

Taken together these three recommendations suggest that BOFI non executive directors should have better quality support. Whilst this might be provided by the BOFI where they serve to be truly independent this support should be provided, as far as possible, independently.

My suggestion therefore is that you promote the concept of “corporate non executive directors” to BOFIs drawing on a parallel in the pensions industry whereby a number of firms have been established providing independent corporate pension trustee services to the trustee boards of pension schemes. In effect a group of experienced pension trustees join together to provide each other with mutual support on a wide range of technical, operational and judgemental issues.

Such pension scheme trustee appointments are made in the normal way but the corporate body is appointed rather than an individual. In practice one identified individual normally fills the role with the support of the corporate body.

My recommendation is therefore as follows:

HM Treasury and the FSA should sponsor the creation of a several independent corporate providers of services to support the independent non executive directors of BOFIs.

I do not think there is a need to prescribe the form of organisation that might offer this corporate non executive director service although the Financial Services Authority would have overall supervisory responsibility for the way in which they operate and the quality and relevance of the support they provide.

In the pensions world corporate trustees provide:

- A genuinely independent voice being tied to neither employee pension scheme contributors and beneficiaries or the sponsoring corporate employer
- A blend of relevant skills including funding and investment management, evaluating the employer covenant and in some cases deficit recovery
- Sound advice and a visible process for reaching, recording, implementing an monitoring decisions

If the idea receives your backing then I believe the market will respond. Initially I do not think HM Treasury and the FSA need to require all boards to have at least one corporate NED but this might be worth considering in due course if the market provides a good service.

Possible concerns about this concept are:

- commercial confidentiality
- the coherence of the “unitary board” – this recommendation might be construed as creating a new kind of non executive director with regulatory responsibilities first and foremost rather than the wider responsibilities of a director as required by UK company law.
- potential difficulties over the “cultural fit” of individuals offered by a corporate body – although the Nomination Committee of the BOFI board making the appointment should be able to control this.

I will not attempt to define the concept further in this letter but if you find it attractive I would be pleased to meet you to explore further how it might be made to work in practice.

Yours sincerely



JOHN COLLIER