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**John Griffith-Jones**  
UK Chairman & Senior Partner

The Walker Review secretariat  
25 The North Colonnade  
Canary Wharf  
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Our ref:

Contact:

6 October 2009

Dear Sir

**A review of corporate governance in UK banks and other financial industry entities**

We welcome the opportunity to respond to the review of corporate governance in UK banks and other financial industry entities and strongly support the key themes arising from the review: in particular that the FRC's Combined Code remains fit for purpose; the importance of board level engagement in the risk management process; and that the governance deficiencies witnessed in recent times have largely been related to behavioural issues – irrespective of the different governance models and structures operated by global financial institutions.

How the differing behaviours employed by companies have mitigated the effect of the crisis, and how ethical and moral probity can be instilled throughout organisations, are both areas in which further research would be welcome.

**Applicability beyond banks and other financial institutions**

The extent to which the recommendations will extend beyond banks and other financial institutions (BOFI) is by no means clear – though we expect that there will be pressure for at least some of the Recommendations to be extended to non-BOFI companies that are subject to the Combined Code. We await with interest the FRC's conclusions following their current consultation on this matter – but do not support the application of the recommendations in anything like their entirety to non-BOFI organisations. In any event we do support a principles-based approach rather than one that is too prescriptive.

**International perspective**

Most banks operate in an international context as do most institutional shareholders and non-executive directors. There are a number of issues raised in the recommendations that have international implications. It is important to ensure that the international nature of institutional shareholders and non-executive responsibility is reflected in the recommendations and any final changes made to the Combined Code on Corporate Governance and that amendments to the corporate landscape in the UK do not lead to a competitive disadvantage in the international community.



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Our comments on some of the specific recommendations within the review are set out in the attached appendix. We hope that our comments prove to be useful and we welcome on-going dialogue. Please do not hesitate to contact me should you wish to discuss any of the points raised in this response.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Griffith-Jones', written in a cursive style.

John Griffith-Jones  
Joint Chairman  
KPMG Europe LLP

## **APPENDIX 1 - Comments on specific recommendations**

### **Recommendation 1**

We are fully committed to helping non-executive directors refine the skills and expertise they need to fulfil their role effectively. We believe that the Bank of England and FSA could also play a leadership role in this area by hosting 'educational' sessions or 'awareness' training on a regular basis.

### **Recommendation 2**

We support the principle that boards should provide non-executive directors with appropriate support mechanisms and to get separate advice as and when needed - but it should be for boards to decide how this is delivered.

### **Recommendation 3**

Quantifying a minimum time commitment may serve as an indicator of the importance of the non-executive role. However, it should also be stressed that time commitments vary according to the complexity of the organisation, the business activity and even the economic cycle.

Our conversations with a number of non-executives from major banks lead us to believe that 30 to 36 days is short of the time commitment already demonstrated by such directors. However, we recognise that the recommended time commitment is 'a minimum' and the review recognises that many non-executive directors will have spent considerably more time in the last 18 months.

### **Recommendation 10**

We understand the investor pressure towards the annual re-election of the Chairman. However, we are not convinced that this is a useful recommendation as the practice may create greater uncertainty and reinforce short-term behaviours.

### **Recommendations 12 and 13**

We welcome the proposals around the regular external facilitation of board evaluation as this may get to the heart of many of the 'behavioural' and 'cultural' issues raised in the review.

Greater disclosure of the board and committee evaluation is a good thing and a separate section of the annual report focussed on this and the activities of the nomination committee is a welcome development. Clearly there are practical issues surrounding disclosure, but there are sufficient good examples from both the financial and non-financial sectors that serve to illustrate that useful information can be disclosed without straying into the realms of seriously prejudicial information.

Consideration could be given to enhancing the current best practice suggestions appended to the Combined Code to encourage:

- board performance evaluations to address *intra alia*:
  - the effectiveness of and the time given to the induction of directors
  - learning and development activity undertaken by board members (both executive and non-executive directors)
  - how the board ensures directors have access to the 'right' information on a timely basis
  - feedback mechanisms to get input from below board level and from stakeholders outside the organisations.
  
- reporting of board evaluation to address:
  - who conducted the evaluation
  - what other services that organisation supplied to the company
  - how it was conducted
  - what it concluded
  - what would the company be doing differently as a result.

#### **Recommendations 14 to 19**

We believe the review gives a welcome and thoughtful consideration of the issues concerning increasing shareholder engagement in listed financial companies and rightly acknowledges the finely-balanced mix of relationships, powers and duties between fund managers (acting as agents), beneficial owners and investee companies.

In our view the recommendations are, on the whole, positive and practical and should enhance companies' and the FSA's focus on dealing with shareholder concerns (recommendations 14 and 15) as well as encouraging fund managers to have greater engagement with investee companies through the principles of "stewardship" - influencing companies to achieve long term sustainable performance (recommendations 16 to 22).

#### **Recommendations 23**

In principle we are supportive of a board risk committee as a way of demonstrating that sufficient time and focus is given to the governance of risk. However, we believe it is important that there is a common understanding of what typically are the responsibilities of such a committee to ensure there is complete clarity over risk management and risk governance. To draw a parallel, there is a wealth of guidance on audit committee responsibilities and associated best practice and it would, in our view be helpful, if similar information could be developed for

risk governance. Provided the risk governance responsibilities are clear, it should be for each company to decide how best these are discharged through the corporate governance process between the Board and either a risk committee or an audit and risk committee.

**Recommendation 24**

We are fully supportive of the proposed role of the Chief Risk Officer and agree that he/she should participate in the risk management and oversight process at the highest level on an enterprise-wide basis and have a status of total independence from individual business units.

**Recommendation 25**

We agree that the board risk committee (or other body with responsibility for oversight of current risk exposures and future risk strategy) should have access to and, in the normal course, expect to draw on external input to its work as a means of taking full account of relevant experience elsewhere and in challenging its analysis and assessment.

**Recommendation 27**

We support the proper disclosure of risk, but would like to see any final recommendation fully aligned to the existing risk disclosure requirements set out in the FRC's guidance for directors on internal control and the Companies Act 'Business Review' requirements.

**Recommendations 28 to 39**

We believe these recommendations are too prescriptive with too much emphasis on the quantum of remuneration rather than consideration of the remuneration policy itself. Too much focus on detail rather than substance should be avoided. In particular, the recommendation that the chairman of the remuneration committee stand for re-election when the remuneration committee report attracts less than 75 per cent of total votes cast may be harmful to the unitary board concept and may lead to individual non-executive directors being made scapegoats for board decisions.

We are also concerned that the recommendation regarding disclosure of 'high end' executive remuneration – albeit in bands – will have the unintended consequence of ratcheting remuneration upwards. This is what was experienced following the introduction of the additional directors' remuneration disclosure requirements in 1995 and there is a danger of history repeating itself.

We do, however, support the development of a remuneration consultants' code of conduct and think that this is a useful mechanism to address the conflicts of interest that are inherent in the provision of remuneration consultancy services.

Finally, we note that the consultation was issued before the FSA's Remuneration Code was finalised and that there is now a significant disconnect between the two. It would be helpful if the two were aligned when the final recommendations are released.