

COMMITTEE ON THE FINANCIAL ASPECTS OF CORPORATE GOVERNANCE**MINUTES OF THE MEETING HELD ON THURSDAY 9 SEPTEMBER 1993**
AT THE BANK OF ENGLAND**Present:**

Sir Adrian Cadbury
Jim Butler
Sir Andrew Hugh Smith
Professor Andrew Likierman
Arthur Russell
Mike Sandland
Mark Sheldon
Martin Taylor
Gina Cole

Agenda Item 1

1. Apologies for absence were received from Jonathan Charkham, Hugh Collum, Sir Dermot de Trafford and Nigel Macdonald.

Agenda Item 2

2. The minutes of the previous meeting held on 3 June 1993 were agreed.

Agenda Item 3- Extension of Report to Large Private Companies

3. Consideration of Jonathan Charkham's paper on the extension of the Report's recommendations to large private companies was deferred until the meeting on 24 November.

Agenda Item 4 - Recognition of Smaller Companies as a separate group

4. The Committee noted the views expressed by the City Group for Smaller Companies (CISCO) and the ACCA in CFACG(93)8. The Chairman and Sir Andrew Hugh Smith had had a meeting with Richard Balarkas of CISCO during the summer. The Committee agreed that there was no universally acceptable definition of a smaller company, and whatever definition was used, it would not be satisfactory. The Secretary will keep in touch with the ACCA and bring to the Committee's attention any drafts they produce. The question of smaller companies will be put on the Agenda for 1995 but no responsive action need be taken at present.

Agenda Item 5 - Monitoring Sub-Committee Progress

5. Professor Likierman advised the Committee that the purpose of the Sub-Committee was to provide information to the Committee and to its successor body. It was currently aiming to do so by setting up a monitoring service in conjunction with the ABI, through the ICAEW Research Board and by ad hoc research.

5.1 ABI

Professor Likierman thanked Mike Sandland for his efforts in facilitating the establishment of the monitoring service with ABI. A researcher is now in place who will be undertaking monitoring. The Committee have been asked by the ABI to contribute to his costs. The Sub-Committee are in the process of agreeing a monitoring checklist with the ABI, including its scope and sample, and how much information should be expected to result from the checklist, and how much from other pieces of work.

5.2 ICAEW Research Board

The ICAEW had issued a special interest notice over the summer inviting preliminary proposals for research projects on corporate governance. Professor Likierman advised that he would report on progress at the next Committee meeting.

5.3 Ad-hoc Research

Professor Likierman advised that he was aware of various interests, and was also of the view that once the checklist was in train, the Sub-Committee may wish to engender research into areas arising.

5.4 Funding for ABI researcher

The Secretary advised the Committee that the ABI had requested that the Committee should contribute £15,000 per annum towards the costs of the researcher. This was agreed but Mark Sheldon advised that it should be made clear that the funding could only be definite for the current year, and funding for future years would be included in the Committee's application for funds from its sponsors, but could not be guaranteed.

Agenda Item 6 - Rolling Contracts

6. After discussion, the Committee confirmed that it was in agreement with the line taken in the correspondence on rolling contracts with Mr Ross Russell of EMAP. The Chairman advised that the area would be kept under review.

Agenda Item 7 - Executive/Non-Executive Terminology

7. The Chairman quoted the Institute of Directors' definitions of Executive Directors and Chairman, submitted by Sir Dermot de Trafford. In the ensuing discussion, Martin Taylor suggested that it was up to companies themselves to make their own decisions and subsequently justify them. Mark Sheldon suggested that no Chairman was totally without executive functions. Professor Likierman thought that the use of terminology would prove an interesting area for research. The Chairman summed up by saying that it was an issue for shareholders and boards to discuss and would be on the agenda for 1995. IIMR would be advised accordingly.

Agenda Item 8 - Any Other Business

Implementation

8. The Secretary raised two queries which had been put to her prior to the meeting, concerning the implementation of the Code.

8.1 The first query concerned a UK Registered subsidiary company which had preference shares listed, but all the voting shares were owned by its parent company, which was also listed. In these circumstances does the subsidiary company have to make a statement of compliance? The Chairman felt that there could be occasions, for example if the subsidiary company was being wound up, when the preference shareholders would be required to vote. Arthur Russell pointed out that as the shareholders of the subsidiary company were the parent company, they would not need a formal report. Martin Taylor referred to the introduction of the Committee's Report which implied that all parts of a company would be covered by its compliance statement. The Committee agreed that the Code extended to a company and all its subsidiaries. The subsidiaries would not be required to make individual compliance statements.

8.2 The second query from Eversheds the solicitors is set out in their fax to the Secretary dated 8 September (copy attached). The Committee agreed with the view put forward by Mr Croome in paragraph 3 and approved his draft wording.

Progress on going concern/internal control

9. Jim Butler enquired where the Committee stood in relation to the timing of guidance on internal control and going concern. The Chairman advised that Sir Ron Dearing would be having a further "overload" meeting the following week and Committee members would be kept informed of developments.

Agenda Item 9 - Date of Next Meeting

10. The date of the next meeting was agreed for 3.00 pm on Wednesday 24 November at the Bank of England.

Gina Cole
Secretary
30 September 1993

**EVERSHEDS
FACSIMILE**

To
Gina Cole

From
Andrew Croome

Company

Your Ref

Fax Number
071 410 6822

Our Ref
col/apc/mzp
51515-2/0009.mzp.f

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Date
8 September 1993

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Dear Gina,

Many thanks for talking on the phone when I explained that I contribute a chapter to Tolley's Directors Handbook on the subject of the Directors Report.

I wanted to try and make a helpful reference to the responsibility statement required for listed companies by virtue of note 12 to the Cadbury Code of Best Practice and in particular the second limb of 12, namely responsibility for preventing fraud.

I want to point out that note 12 does not purport to set out what the responsibility is but merely requires that the responsibility be covered in the statement. I feel it would be appropriate to point out to my readers that, in consequence, if directors do not wish to accept a greater responsibility to shareholders than actually exists, they should not baldly repeat the relevant section of note 12 (as some companies appear to have done already) but should rather deal with this by including a sentence in the statement along the following lines:

"The directors are also responsible for ensuring that proper and adequate accounting records have been

Eversheds
Daynes Hill & Perks

Telephone
0603 272727

Regulated by the Law
Society in the conduct
of investment business

Holland Court
The Close
Norwich
NR1 4DX

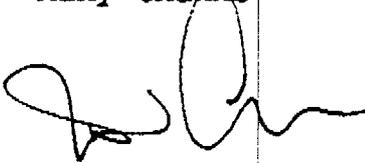
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maintained and that reasonable procedures have been followed for safe-guarding the assets of the company and for preventing and detecting fraud and other irregularities."

I wanted, if possible, to check that this advice does not conflict with your understanding of the recommendation. It has also been suggested to me by a colleague that the Stock Exchange may not insist (for the purposes of a listed company confirming it has complied with the Code) on the responsibility statement containing any reference at all to safe-guarding assets and preventing fraud. Are you able to comment on that as well please.

Many thanks



ANDREW CROOME

Eversheds
Daynes Hill & Perks

Holland Court
The Close
Norwich
NR1 4DX

Telephone
0603 272727

Facsimile
0603 610535

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Society in the conduct
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