

From the Chair



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

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You approached the Committee for advice on taking up an appointment with Investcorp International Ltd.

The Committee's role and remit

As you will be aware, it is the Committee's role to advise on the conditions that should apply to appointments or employment under the Government's Business Appointments Rules for Former Ministers (the Rules), which apply to former Ministers for two years after they leave office. The Rules seek to counter suspicion that:

- a) the decisions and statements of a serving Minister might be influenced by the hope or expectation of future employment with a particular firm or organisation; or
- b) an employer could make improper use of official information to which a former Minister has had access; or
- c) there may be cause for concern about the appointment in some other particular respect.

When the Committee considers applications it must have in mind that Government has judged that it is in the public interest that former Ministers with experience in Government should be able to move into business or into other areas of public life, and to be able to start a new career or resume a former one. It is equally important that when a former Minister takes up a particular appointment or employment, there should be no cause for any suspicion of impropriety.

Investcorp International Ltd

You informed the Committee that you had been invited by Executive Chairman, Mohammed Alardhi, to join the International Advisory Board of Investcorp International Ltd. This is a paid, part-time position involving approximately one day's work per month. You said you would operate in an advisory capacity and would attend occasional board meetings and ad-hoc

meetings with senior members of the management team. You explained you would have no corporate governance or legal obligations. You said you did not envisage that the position would require any contact with Government.

You informed the Committee that as Defence Secretary, you had no contact with or official dealings with the company or its competitors.

We consulted the Permanent Secretary at the MOD, who has no concerns about the proposed appointment.

The MOD have advised that Investcorp International Ltd and the wider Investcorp group have no direct contracts with MOD and no known direct links to the defence industry.

Whilst you would have had information on the long term strategic direction and likely investment decisions of the MOD, much of this information is published in the public domain, such as the National Shipbuilding Strategy, Combat Air Strategy and SDSR 2015. Therefore, this is unlikely to give a significant advantage to Investcorp over its potential rivals.

The MOD explained that ministers are briefed on mergers and acquisitions by exception, where the department has a clear interest. Information provided in such circumstances is only likely to be pertinent for a short time. Therefore, any such issues raised with you during your tenure are likely to have been resolved and be a matter of public record by now.

The Committee's consideration

When considering this application the Committee¹ took into account the information provided by the MOD that Investcorp International Ltd and the wider Investcorp group have no direct contracts with MOD and no known direct links to the defence industry. The Committee has assessed that given the appointment appears to be unconnected to your former position as Defence Secretary, the risk that the appointment could be seen as a reward for decisions made whilst in office is low.

When considering whether your appointment could provide Investcorp with an unfair advantage it took into account the assessment of your former department that much of the privileged information that you once held about investment decisions is now in the public domain and is therefore unlikely to give a significant advantage over competitors. It concluded that the privileged information condition set out below mitigates any residual risks in this regard.

When considering your application the Committee was also mindful that nine months have now passed since your last day in Ministerial office.

Taking into account the specific facts in this case, in accordance with the Government's Business Appointment Rules, the Committee advises the appointment be subject to the following conditions:

¹ This application for advice was considered by Sir Alex Allan; Jonathan Baume; Baroness Browning; Lord Michael German; Terence Jagger; Baroness Helen Liddell and Richard Thomas. John Wood recused himself from this application in line with ACOBA's published Code of Practice. Dr Susan Liautaud was unavailable.

- you should not draw on (disclose or use for the benefit of yourself or the organisation to which this advice refers) any privileged information available to you from your time in ministerial office; and
- for two years from your last day in Ministerial office, you should not become personally involved in lobbying the UK Government on behalf of Investcorp International Ltd or its parent company or subsidiaries. Neither should you make use, directly or indirectly, of your contacts in Government to influence policy or secure business or funding on their behalf.

By 'privileged information' we mean official information to which a Minister or Crown servant has had access as a consequence of his or her office or employment and which has not been made publicly available. Applicants are also reminded that they may be subject to other duties of confidentiality, whether under the Official Secrets Act or otherwise.

The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant/Minister "*should not engage in communication with Government (Ministers, civil servants, including special advisers, and other relevant officials/public office holders) – wherever it takes place - with a view to influencing a Government decision, policy or contract award/grant in relation to their own interests or the interests of the organisation by which they are employed, or to whom they are contracted or with which they hold office.*"

The Committee also notes that with regard to your activities in Parliament you are subject to other rules.

I should be grateful if you would inform us as soon as you take up this appointment, or if it is announced that you will do so, either by returning the enclosed form or by emailing the office at the above address. We shall otherwise not be able to deal with any enquiries, since we do not release information about appointments that have not been taken up or announced. This could lead to a false assumption being made about whether you had complied with the Ministerial Code. Similarly, I should be grateful if you would inform us if you propose to extend or otherwise change your role with the organisation as depending on the circumstances, it might be necessary for you to seek fresh advice.

Once this appointment has been publicly announced or taken up, we will publish this letter on the Committee's website and include the main details of the application, together with the Advisory Committee's advice, in the regularly updated consolidated list on our website and in the next annual report.

The Baroness Browning

Rt Hon Sir Michael Fallon MP

