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Mr Adam Gray
Long-term Focus Consultation
Corporate Law and Governance
BIS
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By post and email: clgconsultations@bis.gsi.gov.uk

Dear Mr Gray

LONG-TERM FOCUS CONSULTATION

1. Ernst & Young LLP welcomes the opportunity to comment on *A Long-term focus for corporate Britain, a call for evidence* ("the Consultation") issued by the Department for Business Innovation & Skills ("BIS").

2. We take note of BIS's views on short-term attitudes and behaviour in the markets, and its consideration of whether there is a need for more regulatory intervention in this area. In our view, there is a greater need and opportunity for BIS and government to focus on wider policy matters, which have a less direct but nevertheless significant long-term effect on corporate Britain. For example, there is scope for further improvement to the UK's infrastructure (e.g., communications, transport and energy) to help support the long-term growth of UK companies and markets.

3. In this regard, sector-specific issues and needs are many and varied, but it would not be possible in a short letter like this to explain and do justice to them. For this reason, we would welcome the opportunity to discuss these matters with BIS directly. Our services and experience span most sectors, and the insight gained from this is something we would be happy to share with the government, given the importance of this agenda.

4. For the same reason, we have offered high-level views on some of the issues raised in the Consultation, rather than reply to specific questions. We believe there are wider issues that need to be addressed in the context of corporate Britain's long-term focus.

UK companies and markets already have a solid foundation for future long-term growth

5. We agree with BIS's remarks that UK companies and markets 'have been immensely successful, attracting investment into the UK and providing the wealth creation which we need to prosper as a nation'. This is owed in part to the UK's principles-based regulatory regime, and companies which have been successful in raising capital on the UK's markets.

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6. We also accept BIS's concern about the effects of short-termism in the markets. We understand why this has been raised, and acknowledge that in some instances short-term behaviour can have the effect of distorting markets if left unchecked. This can have a negative impact on some listed companies by eroding the value of their market capital, which can cause problems in areas such as financing and corporate transactions.

7. However, companies need access to secondary markets that provide liquidity and price-discovery, to help serve the long-term interests of their businesses - affording them the opportunity to raise capital, re-finance their businesses and/or merge or acquire new ones. One of the drivers necessary to sustain these market dynamics is short-term trading and speculation.

8. An unavoidable outcome from this activity is the existence of investors less engaged with the companies they own, because their share holdings are relatively short-term. Just as inevitable is the requirement of analysts and other commentators to look at short-term activity to help gauge long-term performance.

9. In effect, short-term market activity indirectly helps companies to drive long-term growth - you cannot have one without the other.

Regulatory initiatives are already underway to help improve the existing framework that promotes long-term growth

10. We agree with the Secretary of State's comments that regulation can sometimes be a 'blunt and expensive instrument'. We also support his view that 'the best solutions are those owned and driven by market participants, investors and companies'.

11. This is how principles-based codes and guidelines help to foster good corporate governance, allowing boards the flexibility to determine the most appropriate and effective means of governance for their particular circumstances, with the support and engagement of their shareholders. We believe this flexibility is particularly apposite for foreign companies listed in the UK where, for example, boards might operate on a supervisory basis rather than a unitary basis.

12. This is why it is important the UK's codes and guidelines are kept under review, to make sure they reflect changing circumstances (e.g., the financial crisis and economic downturn). To this end, we have welcomed and engaged in consultations (e.g., the Walker Review) which have led to the revised UK Corporate Governance Code and introduction of the Stewardship Code, in addition to revised accounting/auditing standards. We also welcome the various initiatives currently underway, such as the Financial Reporting Council's 'Effective company stewardship' consultation, and the House of Lord's 'Inquiry into auditors: market concentration and their role'.

13. We believe that the UK's principles-based regime (including the "comply or explain" approach) has contributed to the UK's resilience in the worldwide economic downturn, and provided a strong platform for future sustainable growth. The development of the UK's new financial regulatory regime should complement these achievements further, augmenting confidence in the UK's markets for the long term. To this end, we encourage BIS to engage with the European Commission and the department's counterparts in member states, to share the UK experience and the positive outcome of the "comply or explain" approach

CONCLUSION

We believe that corporate Britain is best served by a long-term focus on the preservation of its equity markets and principles-based regulatory regime. We say this because many British companies and investors, subject to the current regulatory regime, continue to overcome the challenges presented by the economic downturn.

There is always scope of course to review regulation, to counter the more negative outcomes of short-term behaviour, but we advise caution against making any wholesale changes to a regime that is effective and widely respected internationally. We believe BIS is better placed to marshal the resource, expertise and capabilities across government to help tackle the wider issues that challenge the long-term growth agenda.

We are grateful to BIS for publishing this Consultation, and we hope the department will consider our offer of support. In the meantime, my colleagues are available to discuss further any of the points we have raised.

We wish you every success with the rest of the consultation process and encourage you to publish all non-confidential responses, including this one, shortly after the closing date. We look forward to reading the results.

Yours sincerely

Robin Heath
Managing Partner
Regulatory & Public Policy