

The Walker Review  
HM Treasury  
1 Horse Guards Road  
London SW1A 2HQ

25th September, 2009

Dear Sir David,

**Re: Walker Review of corporate governance in the UK banking industry**

Our experience as a firm offering strategic advice to FTSE 100 and FTSE 250 clients has given us exposure to a number of plc boards in the financial services industry. We therefore welcome the opportunity to participate in the consultation process surrounding corporate governance best practice.

We advocate improving the scope, quality and objectivity of the information made available to board members ahead of board meetings. In our capacity as advisors to senior executives, we understand that non-executives rely on this information as the basis for their contribution to boardroom debate - yet such information is often found wanting.

We have limited our response to the consultation to those issues upon which we feel qualified to comment. Hence our contribution focuses on the sections in the Walker Review entitled '*Board size, composition and qualification*' and the '*Functioning of the board and evaluation of performance*'.

We hope you find our contribution to the consultation constructive and would welcome a meeting to discuss our recommendations in greater detail.

Please feel free to contact me to discuss any points raised in this letter.

Yours sincerely,

*[Sent electronically]*

Pippa Croney

Director, Board Consulting

## **JRBH's view on the importance of information**

Information plays a critical role in the effectiveness of boards. We believe several steps should be taken to improve the scope, quality and objectivity of such information.

Boards are there to supervise and steward, but their effectiveness depends on the scope and quality of the information they receive. As the executive is currently the principal and often sole provider of such information, and non-execs are limited in their capacity to source additional information, NEDs' independence and impartiality can often be compromised.

Furthermore, each director shares responsibility for board decisions and strategic direction. But with limited access to information, it may be difficult for NEDs to accept full liability for board decisions.

In response to specific points made throughout the Walker Review, we propose three comprehensive improvements to the flow of information that would enhance the contribution of non-executives in boardroom debate:

### **i. Provision of independent information and analysis**

*We advocate the provision of more independent information to be made available to board members, supplementing the material supplied by the executive.*

### **ii. Access to dedicated on-demand research**

*We advocate an on-demand research resource, to be made available to any board director wishing to investigate an issue in greater depth.*

### **iii. Improvements to the induction of NEDs**

*We advocate a more holistic approach to the induction of new NEDs, going beyond the basic requirements of corporate governance to include a more thorough briefing on company and industry issues, enabling new directors to contribute to boardroom debate fully from an early stage.*

## **i. Provision of independent information and analysis**

**The Walker Review makes the following recommendations relating to the provision of information and analysis:**

- [Ensure] that NEDs have the knowledge and understanding of the business to enable them to contribute effectively. (rec 1)
- [Provision of] thematic business awareness sessions on a regular basis. (rec 1)
- [NEDs] should satisfy themselves that board discussions and decision-taking on risk matters is based on accurate and appropriately comprehensive information and draws, as far as they believe it to be relevant or necessary, on external analysis and input. (rec 6)
- The Chairman should facilitate, encourage and expect informed and critical contributions of the directors in particular in discussion and decision-taking on matters of risk and strategy. (rec 9)
- [The Chairman] should promote effective communication between executive and NEDs. (rec 9)

**Our experience and consultation have shown us that:**

- The value of a non-executive's contribution to a board will often depend on the scope and quality of the information they receive, from which they form their views.
- NEDs are often reliant on the information they receive from the executive, which is often limited in scope and vulnerable to the following bias:
  1. **Internal bias:** in some cases the information provided to the board is entirely focused on that which is readily accessible, and as such is limited to internal company information – with little reference to activities outside of the business such as competitor performance and strategies, or market-wide developments and trends.
  2. **Relevancy bias:** even among executive teams with the utmost integrity, their opinion of what data is relevant to supply to the board will be influenced by their own vision and preconceptions surrounding company strategy and future direction.
  3. **Favourability bias:** information that reflects favourably on the executive is inevitably more likely to be included in the material presented to the board.
- In the absence of objective information, the value of NEDs' independence is compromised.
- NEDs are particularly exposed to the absence of objective information, having no clear means of sourcing information independently of the executive.

**JRBH recommends:**

- All board directors, including NEDs, should be able to access independently sourced information to supplement the information they receive via the executive.
- Regular updates should be geared to gaining an external perspective and broad industry understanding. The net should be cast wide, encompassing dynamics and developments among competitors and clients, investors' sentiment, emerging technology, regulations, the macro-economic environment and other such topics that will help NEDs identify the issues worthy of attention.
- Independent information should be presented in a format that is concise and digestible.

## **ii. Access to dedicated on-demand research**

**The Walker Review makes the following recommendations regarding access to dedicated resources:**

- [Provision] for dedicated support for NEDs on any matter relevant to the business on which they require advice separate from or additional to that available in the normal board process. (rec 2)
- [NEDs] should be ready, able and encouraged to challenge and test proposals on strategy put forward by the executive. (rec 6)
- The Chairman is responsible for ensuring that directors receive all information that is relevant to discharge them of their obligations in an accurate, timely and clear form. (rec 9)

**Our experience and consultation have shown us that:**

- NEDs do not have a dedicated research resource providing additional information.
  - This can compromise their ability to question and debate effectively, since they lack the resource to substantiate or qualify their questions, opinions or judgment.
  - Furthermore, NEDs will each have differing levels of industry knowledge and some may require a greater level of briefing than others, especially in technical matters.
- NEDs often lack the capacity (time or resource) to undertake their own research.
  - It may not be an efficient use of their skill set and many may not have the requisite time, beyond the days they have committed to fulfil their board duties.
- NEDs may be invited to request information via the executive. There are, however, a number of constraints:
  - The information may not yield a neutral view, limiting its usefulness.
  - It may prove disruptive to an organisation for an NED to request research into areas that are merely speculative and which may have ramifications for those executives (i.e. contemplating a merger of equals; contemplating the closure or expansion of a part of the business).
  - It may also undermine the executive board members if NEDs were to commission the staff of the executive to research issues that the executive board members are not necessarily in agreement with.
  - There may not be internal resource available to be on-demand at the request of NEDs.
- Without an independent resource through which to access information, NEDs have little ability to question, challenge and debate effectively.

**JRBH recommends:**

- All NEDs should have access to an independent, on-demand research service.
- The provision of an on-demand service would promote and empower NEDs in regular constructive questioning and debate.
- The Chairman should support and encourage the active use of such a service to ensure NEDs have sufficient knowledge to question and debate.
- The provision of a service of this kind would improve the pace of decision making, ensuring directors are better briefed in advance of board meetings, improving the quality of the debate, and filtering 'red-herrings' prior to the board meeting.
- The Chairman should monitor the use of such a service to satisfy himself that NEDs are engaged and proactive in debate.

### **iii. Improvements to the induction of NEDs**

**The Walker Review makes the following recommendations relating to the induction of board directors:**

- [Each] NED should be provided with a substantive personalised approach to induction. (rec1)
- The FSA's ongoing supervisory process should give closer attention to... [individual director's] access to an induction and development programme to provide an appropriate level of knowledge and understanding as required to equip them to engage proactively in board deliberation, above all on risk strategy. (rec 4)

**Our experience and consultation have shown us that:**

- Board directors, especially NEDs, rarely receive adequate board inductions.
  - Where they do it is focused on corporate governance principles, directors' duties and a whistle-stop overview of the company's operating structure and sites.
- NEDs' level of knowledge varies depending on their background and sector experience.
  - The induction should be tailored to the background of the individual.
  - It should focus more deeply on industry issues where the NED does not have previous sector exposure.

**JRBH recommends:**

- All NEDs should be provided with an induction programme introducing them to both the company and industry and to corporate governance issues.
- The induction should be tailored to the background of the individual, focusing on industry dynamics and issues where the NED does not have previous sector exposure.
- The company and industry induction should be provided by an independent source to ensure an impartial view.
- The induction should be structured to address speed to competency issues, which can affect NEDs' ability to contribute effectively and be held accountable.
- The induction should provide the Chairman with assurance of a base level of sector competency amongst the NEDs, providing them with sufficient knowledge to contribute and debate from the outset.