

By email: supportgroup@thetakeoverpanel.org.uk

31 July 2024

Dear Sir / Madam

COMPANIES TO WHICH THE TAKEOVER CODE APPLIES

The Chartered Governance Institute UK & Ireland is the professional body for governance and the qualifying and membership body for governance professionals across all sectors. Its purpose under Royal Charter is to lead effective governance and efficient administration of commerce, industry, and public affairs working with regulators and policymakers to champion high standards of governance and providing qualifications, training, and guidance. As a lifelong learning partner, the Institute helps governance professionals achieve their professional goals, providing recognition, community, and the voice of its membership.

One of nine divisions of the global Chartered Governance Institute, which was established 130 years ago, The Chartered Governance Institute UK & Ireland represents members working and studying in the UK and Ireland and many other countries and regions including the Caribbean, parts of Africa and the Middle East.

As the professional body that qualifies Chartered Secretaries and Chartered Governance Professionals, our members have a uniquely privileged role in companies' governance arrangements. They are therefore well placed to understand the issues raised by this consultation document. In preparing our response we have consulted, amongst others, with our members. However, the views expressed in this response are not necessarily those of any individual members, nor of the companies they represent.

Our views on the questions asked in your consultation paper are set out below.

Q1. Should the scope of the Code be narrowed to apply only to a company which is “UK-listed” or which was “UK-listed” at any time during the three years prior to the relevant date?

Yes. This limitation ensures that market integrity is maintained, investor trust is fostered, and the Code remains relevant to the UK's economic environment. Simplifying the compliance criteria also streamlines governance, benefiting both companies and regulators.

Q2. Do you agree that the “run-off” period for a company which ceases to be UK-listed should be three years?

Yes. This recommendation balances the protection of minority shareholders with the flexibility required by a delisted company as a private entity. The proposed shorter run-off period would still protect minority shareholders from potential unfair treatment by new controllers. Furthermore, maintaining the residency test ensures that the company retains a significant connection to the Code’s jurisdiction.

Q3. Should the Panel have the ability, where appropriate, to grant a waiver from the application of some or all of the provisions of the Code in respect of a company which has ceased to be “UK-listed”?

Yes, the Panel should have the ability, where appropriate, to be able to grant a waiver. Granting a waiver from the application of the Code allows for flexibility in its enforcement, ensuring that the Code’s rules are applied in a manner that is appropriate and proportionate to each company’s specific circumstances. This flexibility is important for companies with few shareholders or those that are no longer UK-listed, where applying the Code in full might be inappropriate or excessively burdensome. By allowing waivers, the Panel can ensure that the Code remains effective and relevant, without imposing undue hardship on companies that might struggle with compliance due to their unique situations.

Q4. Do you have any comments on the proposed new section 3(a) of the Introduction?

We have no comments.

Q5. Should the new section 3(e) of the Introduction with regard to the cancellation of admission to trading be introduced as proposed?

Yes, the new section should be introduced as proposed.

Q6. Do you have any comments on the minor and consequential amendments?

We have no comments.

Q7 is omitted.



Q8. Should the transitional arrangements be introduced as proposed?

Yes. The proposed transitional arrangements allow three years for companies to adapt to new governance regulations, facilitating a smooth transition. Companies can make the necessary adjustments to align with the new regime, while also having the option to seek alternative regulatory oversight if more appropriate.

Q9. Do you agree that the length of the transitional period should be three years?

Yes. This will help companies to adapt to new regulatory environments while minimising potential negative impacts on business continuity. It will provide companies ample time to adjust to new regulations, ensuring a smooth transition without disrupting business operations. This period will allow companies to align their practices with the new requirements, make necessary changes to governance structures, and communicate these changes to shareholders. It is a practical approach that supports both regulatory compliance and corporate stability.

Q10. Do you have any comments on the proposed new section 3(a)(iii) of the Introduction or the new Transitional Appendix?

We have no comments

If you would like to discuss any of the above comments in further detail, please do feel free to contact me.

Yours faithfully,

Peter Swabey

Policy and Research Director

The Chartered Governance Institute UK & Ireland

020 7612 7014

pswabey@cgi.org.uk

