July 2021

BEIS Consultation (CP382): Restoring trust in audit and corporate governance

ClientEarth Response

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Introduction

ClientEarth is a charity that uses the power of the law to protect people and the planet. We are international lawyers finding practical solutions for the world's biggest environmental challenges. From our offices in London, Brussels, Warsaw, Berlin, Madrid, Beijing, Luxembourg and Los Angeles, we work on laws throughout their lifetime, from the earliest stages to implementation and enforcement.

Despite clear investor demand[1], companies in the UK consistently fail to disclose material climate-related information to financial markets[2]. These continued disclosure failures undermine investors' ability to integrate climate-related information into their investment and stewardship decisions, increase financial stability risks and delay action to align the economy and financial system with the UK's commitment to achieve 'net-zero' greenhouse gas emissions by 2050[3], as well as its emissions reduction targets in its nationally determined contribution under the Paris Agreement[4] and its sixth carbon budget[5].

Improving the quality of audit and corporate governance, and associated accountability mechanisms, is crucial to ensuring investors have access to timely and accurate information on the implications of these risks and to ensuring the stability of the investment market as a whole. ClientEarth therefore welcomes the proposals from BEIS to enhance the UK's audit, corporate reporting and corporate governance systems. However, in our view, the proposals do not go far enough to achieve their stated objectives, and risk leaving investors without the granularity of information required on material business and financial risks, including climate change.

This document sets out ClientEarth's key recommendations on what is required to restore and enhance trust in audit and corporate governance, and its responses to the questions raised in the consultation.

Key recommendations

- Public Interest Entities ("**PIEs**") must be explicitly required to disclose how and to what extent their strategy and financial accounts are aligned with the Paris Agreement goal of limiting global temperature rise to 1.5 °C and, if they are not, then what adjustments to the strategy and accounts would be required for them to be so aligned.

- Auditors of PIEs must be explicitly required to undertake 'Paris-aligned' audits that test accounts against assumptions and estimates that are aligned with the goals of the Paris Agreement and to disclose to shareholders any concerns about the assumptions and estimates used by the company.

- The mandate for the new regulator, the Audit, Reporting and Governance Authority ("**ARGA**"), must require it to have regard to the government's commitment to achieve a net-zero economy by 2050

[1] See, for example, the Climate Action 100+ Net–Zero Company Benchmark and Investor Expectations for Paris-aligned Accounts (November 2020, IIGCC)
[2] See ClientEarth's report, 'Accountability Emergency, A review of UK-listed companies' climate change-related reporting (2019-20)' (2021); FRC Reporting Lab, 'FRC Climate Thematic Review 2020' (2020)
[3] Section 1 Climate Change Act 2008
[4] The Government's 'UK Nationally Determined Contribution' (2020) commits to reduce emissions by 68% (compared to 1990 levels) by 2030
[5] The draft Carbon Budget Order 2021 (which is to be enacted pursuant to Part 1 of the Climate Change Act 2008) sets emission targets that imply a 78% reduction in emissions (compared to 1990 levels) by 2035.

under the Climate Change Act 2008 when considering how to advance its objectives and discharge its functions.

Consultation Question Responses

1. The Government's approach to reform

1.3 Resetting the scope of regulation

1. Should large private companies be included within the definition of a Public Interest Entity (PIE)? Please give your reasons.

Yes. Large private companies should be included within the definition of Public Interest Entity ("**PIE**").

As identified in both Sir John Kingman's 2018 Review of the Financial Reporting Council ("**FRC**") ("**Kingman Review**"), and Sir Donald Brydon's 2019 Review into the Quality and Effectiveness of Audit ("**Brydon Review**"), there is a clear need for the accounts, reports and governance of large private companies to be subject to the same level of scrutiny and supervision as their publicly listed counterparts, including in relation to climate change and other sustainability risks and impacts.

The activities of large private companies in the UK are undeniably of significant public interest. Collectively, they produce trillions in economic value for customers, investors and communities, and they support the livelihoods for millions of workers and retirees. As shown by the recent failure of BHS, when large private companies collapse or underperform, there is a significant cost and disruption that is born by the public, workers, communities, and creditors. Large private companies must be held to equivalent governance, reporting and audit standards as those that are publicly listed.

2. What large private companies would you include in the PIE definition: Option 1, Option 2 or another? Please give your reasons.

The definition of PIE should be extended to include all 'large undertakings', as defined by the EU Accounting Directive (adapted to appropriate GBP equivalent thresholds).[6] This definition includes:

> *'undertakings which on their balance sheet dates exceed at least two of the three following criteria:*
>
> *(a) balance sheet total: EUR 20 000 000;*
> *(b) net turnover: EUR 40 000 000;*
> *(c) average number of employees during the financial year: 250.'*

This definition of 'large undertaking' is both more comprehensive and more flexible than either Option 1 or Option 2 proposed for updating the definition of PIE in the Consultation. It is also the threshold which the EU has proposed setting as the benchmark for its enhanced sustainability reporting, disclosure and audit requirements in its Corporate Sustainability Reporting Directive ("**CSRD**").[7]

In extending the definition of a PIE to encompass large private companies, the UK should ensure that it is at least as ambitious as the EU. Failure to do so will create a perception that UK standards of corporate governance, reporting and audit are weaker than in the EU and will place investors in UK companies, as

[6] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0034&from=EN
[7] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0189

well as customers and creditors, at a competitive disadvantage; potentially making the UK less attractive to international business and investment.

In the event that our suggested approach is not followed, we believe that the Government's proposed Option 2 would be preferable to Option 1. However, we do not agree that both turnover and employee conditions in Option 2 should need to be met for an entity to be characterised as a PIE. Either of these criteria on their own should be sufficient.

3. Should AIM companies with market capitalisation exceeding €200m be included in the definition of a PIE? Please give your reasons.

Yes, with qualifications. Ideally, the definition of PIE should be extended to include all 'large undertakings' as defined in response to Question 2, above, including AIM listed companies. This provides a proportionate balance between comprehensiveness and flexibility and would maintain consistency between listed and unlisted segments of the market. Given well-publicised concerns regarding the climate change-related and sustainability risks and impacts associated with AIM-listed companies,[8] there is particular need to ensure that this sector of the market is subject to rigorous governance and reporting requirements and supervision.

At the very least, all AIM companies with market capitalisation exceeding €200m should be included in the definition of a PIE.

4. Should Government give newly listed companies a temporary exemption from some of the new reporting and attestation requirements being considered for Public Interest Entities?

No. To ensure consistency and clarity for shareholders, creditors and other stakeholders, the new reporting and attestation requirements being considered for PIEs must apply comprehensively to all listed companies, immediately when they are listed.

As discussed in our response to Question 2, above, we believe that the PIE definition should be sufficiently comprehensive to already capture many private companies, before they list, which would make this carve out redundant.

In any event, we believe that providing differing, or delayed, implementation of the proposed reporting and attestation requirements across different categories of companies would be harder to regulate (requiring greater resource for those responsible for enforcement), and risks depriving investors and other stakeholders of the material information and robust governance and audit practices that they have a right to expect.

5. Should the Government seek to include Lloyd's Syndicates in the definition of a PIE? Please give your reasons.

Yes. Due to the central role that Lloyd's syndicates play in the UK economy and global insurance markets, there is a clear public interest in ensuring that their governance, reporting and audit practices are of equivalent standard to other public interest entities. While the unique structure of Lloyd's syndicates creates a slightly different risk profile to other insurance undertakings, they are subject to the same disruptive impacts of systemic and concentrated risks, such as those associated with stranded assets or the physical impacts of climate change.[9] Given the size and influence of many Lloyd's syndicates and the

[8] https://londonminingnetwork.org/wp-content/uploads/2019/03/LMN-AIM-advocacy-paper-April-18.pdf
[9] See PRA, 'The impact of climate change on the UK insurance sector' (2015).

overall Lloyd's market,[10] it is imperative that syndicates are subject to the same level of audit and supervision as other insurance undertakings and large financial services firms.

We note that BEIS' recent consultation on mandatory climate-related financial disclosures proposed that PIEs be required to make climate-related disclosures in line with the TCFD's recommendations.[11] For the avoidance of doubt, any such requirements to make climate-related disclosures should also apply to Lloyd's syndicates, for the reasons set out in the above paragraph.

6. **Should the Government seek to include large third sector entities as PIEs beyond those that would already be included in the definitions proposed for large companies? If so, what types of third sector entities do you believe should be included and why?**

We have no comments in relation to this question.

7. **What threshold for 'incoming resources' would you propose for the definition of 'large' for third sector entities? Is exceeding £100m too high, too low or just right?**

We have no comments in relation to this question.

8. **Should any other types of entity be classed as PIEs? Why should those entities be included?**

We believe that all entities that meet the definition that we have proposed in response to Question 2 should be classified as a PIE.

9. **How would an increase in the number of PIEs impact on the number of auditors operating in the PIE audit market?**

We have no comments in relation to this question.

10. **Do you agree that the Government should provide time for companies to prepare for the introduction of a new definition of PIE?**

While some time should be provided for companies and auditors to prepare for any expanded definition of PIE, it is concerning that the current proposal is for 'a significant lead time' of an indeterminate amount. Given the urgency and long overdue need for reform of key governance, reporting and audit requirements, the new definition should be made applicable, as soon as possible. These reforms have been on the horizon for many years, and firms have already had a substantial amount of time to prepare.

All affected entities should be required to comply from the commencement of the next reporting period after the relevant legislation has been passed, at the latest.

11. **Do you agree that the Government should seek to offer a phased introduction for a new definition of PIE?**

As noted above in our response to Question 10, given the urgency and long overdue need for reform of key governance, reporting and audit requirements, the new definition should be made applicable, as soon as possible. All affected entities should be required to comply from the commencement of the next reporting period after the relevant legislation has been passed, at the latest.

[10] In 2018 (the latest year for which figures are published), US$ 47.4 billion of premiums were written in the Lloyd's market, which represents 42.9% of the London insurance market. See the London Market Group's report 'London Matters 2020'.
[11] See ClientEarth's response to BEIS' consultation on mandatory climate-related financial disclosures.

2. Directors' accountability for internal controls, dividends and capital maintenance

2.1 Stronger internal company controls

12. Is there a case for strengthening the internal control framework for UK companies? What would you see as the principal benefits and disbenefits of stronger regulation of internal controls?

Yes. The string of recent corporate governance failures and poor-quality reporting by UK companies provides clear evidence that internal control frameworks and associated guidance and accountability mechanisms need to be strengthened.

In particular, recent analysis by ClientEarth and others has shown that current financial and narrative reporting and auditing in relation to climate change and broader sustainability risks and impacts is falling far below investor and regulator expectations.[12] ClientEarth's analysis showed that last year, despite clear regulatory guidance and investor demands, less than 4% of financial accounts and audit reports for the top 250 listed companies made a clear reference to climate change. It also found that narrative climate change-related information disclosed elsewhere in the annual report was often very limited, highly general and inconsistent in quality.

Given the clear materiality of this information to investors and other stakeholders' decision making[13], significant improvements in internal control processes are required. In order to address these shortcomings, expectations and supervision in relation to internal controls must be improved in relation to the entirety of the annual report, not just the financial statements.

13. If the control framework were to be strengthened, would you support the Government's initial preferred option (Table 2)? Are there other options that you think Government should consider? Should external audit and assurance of the internal controls be mandatory?

The Government's initial preferred option contained in Table 2 is an improvement on the current position. However, in order to better ensure that fair and accurate information is provided to financial markets and other stakeholders, a number of improvements need to be made:

- the scope of the directors' review of the internal controls should encompass the entirety of the annual report, not just the financial accounts;
- any principles and guidance developed by the regulator should specifically refer to the need for climate change-related risks and the implication of net-zero strategies to be integrated into the financial accounting and reporting process;
- the audit of the internal control effectiveness statement must be mandatory; and
- no exemption should be made for newly listed companies.

14. If the framework were to be strengthened, which types of company should be within scope of the new requirements?

[12] See, for example, ClientEarth, 'Accountability Emergency: A review of UK-listed companies climate change-related reporting' (2019-20) (2021); FRC, 'Climate Thematic Review' (2020)

[13] See, for example, the Climate Action 100+ Net–Zero Company Benchmark and Investor Expectations for Paris-aligned Accounts (November 2020, IIGCC)

The strengthened internal control framework should apply to all PIEs, from the commencement of the next reporting period after the relevant legislation has been passed, at the latest.

2.2 Dividends and capital maintenance

15. Should the regulator have stronger responsibilities for defining what should be treated as realised profits and losses for the purposes of section 853 of the Companies Act 2006? Would you support either of the two options identified? Are there other options which should be considered? What should ARGA consider when determining what should be treated as realised profits and losses?

Clearer rules regarding the calculation and disclosure of realised profits and losses are urgently needed. As per Option 2, the regulator should have powers to make binding rules as to the meaning of realised profits and losses with which preparers would need to comply. Compared to the non-binding guidance contained in Option 1, this would provide far greater consistency and certainty for preparers, as well as auditors, shareholders and other stakeholders.

When determining what should be treated as realised profits and losses, the regulator should carefully consider the need for preparers to ensure that accounting assumptions take into account climate change-related risks and impacts and net-zero transition strategies. As is already being demanded by leading investors, [14] for shareholders and other stakeholders to properly assess the preparers resilience and prospects in light of global goals to achieve net-zero greenhouse emissions, these matters must be taken into account within the current capital maintenance regime. Clear guidance must be provided to preparers on how to do so.

16. Would the proposed new distributable profit reporting requirements provide useful information for investors and other users of accounts? Would the cost of preparing these disclosures be proportionate to the benefits? Should these requirements be limited to listed and AIM companies or extended to all PIEs?

Investors need to know what portion of a company's profit has been realised, what portion has not, and what profits are available for distribution. Understanding the level of unrealised profits is important to judging the reliability of a business's income stream. It is also a key ingredient in determining a company's true capital strength and ability to pay dividends. In coming years, transparency around these issues will be particularly critical as companies most exposed to climate change-related risks are transitioning their business.

Accordingly, an explicit disclosure requirement regarding distributable profits and reserves at the group level (supplemented by an estimate of dividend paying capacity based on subsidiary profits, where necessary) would help protect against insolvency and help strengthen long-term stewardship of companies in the interests of shareholders, as well as other stakeholders and the public interest. Going forward, this information must be disclosed as part of the annual report and subject to audit. This requirement should apply to all PIEs.

In relation to the content of the requirement, only accumulated realised profits (after accounting for foreseeable losses and liabilities) should legally be distributed to shareholders in the form of dividends.

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[14] IIGCC, 'Leading investors call on Europe's largest companies to address missing climate change costs in financial accounts' (2020); https://sarasinandpartners.com/wp-content/uploads/2020/11/Investor-Expectations-for-Paris-aligned-Accounts.pdf

This reflects the economic reality that if a 'profit' is not realised as cash or near cash, then any distribution based on such profits will actually be coming from other sources.[15]

Additionally, PIEs must be required to disclose the implications for dividend paying capacity if they have decided not to align their strategy and accounts with the Paris Agreement goals (e.g. threshold assumptions that would trigger cuts to dividends). This is necessary to provide investors with a clear picture of company dividend resilience, in the event that the UK Government's policy objectives are achieved.

17. Would an explicit directors' statement about the legality of dividends and their effect on the future solvency of a company be effective in both ensuring that directors comply with their duties and in building external confidence in compliance with the dividend rules? Should these requirements be limited to listed and AIM companies or extended to all PIEs?

Yes, directors should be required to make a statement confirming their satisfaction that the dividend is made from within known distributable reserves and will not threaten the solvency of the company. Guidance on this requirement should clarify the need for directors to consider, in making such a statement, climate change-related risks and any net-zero strategy in order to satisfy their general duties under s 172(1), their consideration of principal risks facing the business, and the requirements of any new 'Resilience statement'.

In order to be effective, these statements will need to be subject to robust supervision and enforcement mechanisms. This requirement should apply to all PIEs.

18. Do you agree that the combination of recently introduced Companies Act section 172(1) reporting requirements along with encouragement from the investment community and ARGA will be enough to ensure that companies are sufficiently transparent about their distribution and capital allocation policies? Should a new reporting requirement be considered?

We disagree. In our work we have observed that narrative reporting, particularly in relation to climate change related risks and section 172(1) statements is often very limited, inconsistent and of poor quality. This is despite consistent demands for granular material information by shareholders and the regulators. Without a clear legal requirement and accountability through robust enforcement mechanisms, there is insufficient incentive for companies to provide material information about potentially highly sensitive matters.

In order to ensure that clear and consistent disclosures are provided in relation to distributable reserves, the legality of dividends and ongoing solvency, an explicit link must be provided between these disclosures and existing narrative risk reporting requirements, section 172(1) statements, and any future 'resilience statement'. 'Encouragement' from investors and regulators will be inadequate to ensure that all companies provide material and comprehensive disclosures on these matters.

3. New Corporate Reporting

3.1 Resilience Statement

19. Do you agree that the above matters should be included by all companies in the Resilience Statement? If so, should they be addressed in the short or medium term sections of the

[15] See, for example, Sarasin & Partners, 'Audit & Accounts' (2019)

Statement, or both? Should any other matters be addressed by all companies in the short and medium term sections of the Resilience Statement?

Climate change and the transition to a net-zero greenhouse gas ("**GHG**") emission economy will affect all businesses. In many cases, the risks and impacts associated with climate change will directly affect liquidity, solvency and business continuity. These risks and impacts will also affect many companies' strategy, resilience, and capacity to pay dividends over short, medium and longer-term timeframes.

Despite these challenges, very few companies currently disclose information about how climate change-related risks and impacts will affect their business in their viability statement. By way of example, ClientEarth's recent analysis of the annual reports of the top 250 companies listed in the UK found that just 12% clearly referred to climate change in their viability statement.

It is therefore critical that any new 'Resilience Statement' requires all companies to disclose the resilience of their business to climate change-related risks and impacts. As is already being demanded by leading investors,[16] this must explicitly require companies to disclose how and to what extent their strategy and financial accounts are aligned with the Paris Agreement goal of limiting global temperature rise to 1.5 °C and, if they are not, then what adjustments to the strategy and accounts would be required for them to be so aligned.

20. Should the Resilience Statement be a vehicle for TCFD reporting in whole or part?

As set out in response to Question 19, above, any new resilience statement should explicitly require companies to disclose how and to what extent their strategy and financial accounts are aligned with the Paris Agreement goal of limiting global temperature rise to 1.5°C and, if they are not, then what adjustments to the strategy and accounts would be required for them to be so aligned

This requirement which specifically relates to companies' financial accounts and resilience, should be separate and additional to any of the new requirements being introduced by BEIS or the FCA, that require companies to make disclosures that are aligned with the recommendations of the TCFD.

To ensure that shareholders and other stakeholders can confidently rely on the information contained in the Resilience Statement, auditors must be required to include it within the scope of their audit on a mandatory basis.

21. Do you agree with the proposed company coverage for the Resilience Statement, and the proposal to delay the introduction of the Statement in respect of non-premium listed PIEs for two years? Should recently-listed companies be out of scope?

Given the urgency and clear investor demand for material information regarding companies' resilience in the face of climate change risks and impacts, all PIEs should be required to provide a Resilience Statement, incorporating the specific matters in relation to climate change-related risks referred to above, from the commencement of the next reporting period after the relevant legislation has been passed, at the latest. Recently listed companies must also be included within the scope.

3.2 Audit and Assurance Policy

[16] IIGCC, 'Leading investors call on Europe's largest companies to address missing climate change costs in financial accounts' (2020).

22. Do you agree with the proposed minimum content for the Audit and Assurance Policy? Should any other matters be addressed in the Policy by all companies in scope?

The current framework for audit and its regulation and enforcement is not fit for purpose. This is especially the case in relation to the assurance of climate change-related information, both in the financial accounts, and in other information included with company annual reports. Unfortunately, we do not believe that the proposals relating to the introduction of a new Audit and Assurance Policy, and the associated mechanism for shareholder voting are adequate to meet the current shortcomings.

Despite wide-spread recognition that the financial risks and impacts associated with climate change are some of the biggest mega-trends facing business today, we have observed a highly divergent and inconsistent approach taken by companies and their auditors in addressing these issues in the financial accounts, narrative reporting and audit reports. In our recent Accountability Emergency report, we found that out of the top 250 UK listed companies, just 4% of audit reports clearly referred to climate change-related factors. In the narrative section, climate change-related disclosures were also limited and highly inconsistent, with many companies failing to provide any information at all.

In order to address these shortcomings, audit must be designed to enhance the confidence of users in all of the information included in the annual report. This should include the financial accounts as well as the ‘other information’ such as the strategic report, directors’ report and corporate governance statement. With investors now deeply integrating environmental social and governance (“**ESG**”) information into their analysis and investment and stewardship decision-making (especially in relation to climate change), it is clear that this information is highly material.

Rather than perpetuating a confusing distinction between ‘statutory audit’ and ‘corporate audit’ and allowing for a weak non-binding shareholder voting mechanism that will result in highly different audit practices at different companies, the government should mandate that auditors of PIEs be required to provide a fully integrated audit which covers the entire annual report to the standard of ‘reasonable assurance’. This will provide certainty and clarity for preparers, auditors, shareholders and other users of reporting.

Additionally, in light of clear investor demand, and the existing expectation gap, auditors of PIEs must be explicitly required to undertake ‘Paris-aligned’ audits that test accounts against assumptions and estimates that are aligned with the goals of the Paris Agreement and to flag to shareholders any concerns about the assumptions and estimates used by the company.

23. Should the Audit and Assurance Policy be published annually and subject to an annual advisory shareholder vote, or should it be published and voted on at least once every three years?

As discussed in the response to Question 22, above, we do not consider the non-binding shareholder vote on the Audit and Assurance plan to be an effective mechanism for ensuring high-quality and consistent assurance of material information that is legally required to be disclosed in annual reports.

The proposal for shareholders to be given a non-binding advisory vote on the audit policy is unsatisfactory for a number of reasons. In particular:

- it gives too much discretion to companies about what is and isn't audited in the annual report and it will mean that different companies may have very different levels of assurance provided over different parts of the annual report. For example, depending on the company, disclosures of

principal risks and other information in the front half of the annual report (including climate related information) could be subject to almost no assurance, some to 'limited' assurance, and some to 'reasonable' assurance. This will make it difficult to compare the quality of reporting between companies, undermine consistency and delay the urgent improvements in reporting required, especially on climate-related risks, strategies and assumptions;

- it places an overly heavy burden on investors to assess audit scope for every company in their portfolio, but without an adequate incentive to do so, or any meaningful enforcement mechanism to have their concerns addressed; and
- it will distract shareholders from assessing the adequacy and content of company reporting and audit by diverting their attention to more threshold questions about what information is audited and what technical standard it has been audited to (i.e. rather than focussing on the reasonableness of any assumptions in a net-zero strategy, the focus will be on whether it should be audited at all, and whether 'reasonable' or limited' assurance is being provided).

Instead, auditors of PIEs should be required to provide a fully integrated audit which covers the entire annual report to the standard of ‘reasonable assurance’.

If the proposed measure is introduced, at the very least, an annual vote should be required.

24. Do you agree with the proposed scope of coverage and method for implementing the Audit and Assurance Policy?

As discussed in our response to Questions 22 and 23, above, we do not consider that this proposal will achieve its stated objectives. However, if the proposed measure is introduced, it should apply to all PIEs from the commencement of the next reporting period after the relevant legislation has been passed, at the latest, and an annual vote should be required.

3.3 Reporting on Payment Practices

25. In order to improve reporting on supplier payments, should larger companies be required to summarise their record on supplier payments over the previous 12 months as part of their annual Strategic Report (applying at a group level in the case of parent companies)? If so, what should the reporting summary include at a minimum? Do you have alternative suggestions on how to improve supplier payments reporting?

We have no comments in relation to this question.

26. To which companies should improvements in supplier payments reporting apply: companies which are PIEs and already report under the Payment Practices Reporting Duty, or PIEs with more than 500 employees?

We have no comments in relation to this question.

3.4 Public Interest Statement

27. Do you agree with the Government’s proposal not to introduce a new statutory requirement at this time for directors to publish an annual public interest statement?

UK companies are already required to publish a range of information about the risks and impacts of their business to society, the environment and broader stakeholders. Despite the clear materiality of this

information, in our experience, the quality of this reporting is highly general, inconsistent and difficult to compare between companies, including in relation to climate change risks and impacts.

These shortcomings urgently need to be addressed. However, we do not believe that this will be achieved through an additional requirement on companies to provide a separate 'public interest report' or for directors to provide an additional 'public interest statement'. Rather, what is required is for the introduction of new requirements on companies to produce detailed sustainability disclosures that comprehensively cover the sustainability risks and impacts facing their business. This must include a requirement on companies to disclose how and to what extent their strategy and financial accounts are aligned with the Paris Agreement goal of limiting global temperature rise to 1.5 °C and, if they are not, then what adjustments to the strategy and accounts would be required for them to be so aligned. This information must also be covered by the audit.

In its newly proposed Corporate Sustainability Reporting Directive, the EU is already rapidly moving down this pathway.[17] Unless the UK can urgently develop sustainability reporting requirements that are at least as ambitious, it will fall quickly behind and become a de facto standard-taker. This will disadvantage investors, undermine companies' access to capital from EU markets, and ultimately harm the public interest.

4. Supervision of Corporate Reporting

4.4 Influencing the corporate reporting framework

28. Do you have any comments on the Government's proposals for strengthening the regulator's corporate reporting review function set out in this chapter?

As set out in ClientEarth's recent Accountability Emergency report, existing accountability mechanisms for corporate reporting in the UK are deeply inadequate. Over a period of nearly ten years ClientEarth has repeatedly brought detailed evidence about failures by companies to comply with disclosure requirements to the attention of the UK's financial regulators.

The core issue at the heart of these complaints has been whether or not a company has properly disclosed 'material' information. In every case so far, the relevant regulator has failed even to communicate a decision about whether or not the report in question complies with the law – let alone to pursue any remedial actions or sanctions. As far as we are aware, the criminal sanctions contained in the Companies Act in relation to failures regarding accounting and corporate reporting have almost never been imposed.

We are therefore broadly supportive the Government's proposals for strengthening the regulator's corporate reporting review function. However, in order for this to be effective, the new regulator must be properly mandated, resourced, and empowered to take into account the interests of broader users of the annual report, including creditors, employees, pension fund members, regulatory authorities, and wider stakeholders. It must also be joined up with the FCA's oversight of reporting by listed companies.

5. Company Directors

5.1 Enforcement against company directors

[17] https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en

29. Are there any other arrangements the Government should consider to ensure that overlapping powers are managed effectively?

We have no comments in relation to this question.

30. Are there any additional duties that you think should be in scope of the regulator's enforcement powers?

Further to the above points regarding the powers of the regulator in relation to reviews of corporate reporting, the Government's intention to legislate to provide the new regulator with the necessary powers to investigate and sanction breaches of corporate reporting and audit-related responsibilities by PIE directors, is urgently needed. In relation to these powers, the mandate for the new regulator, must require it to have regard to the government's commitment to achieve a net-zero economy by 2050 under the Climate Change Act 2008 (Order 2019) when considering how to advance its objectives and discharge its functions.

The duties in scope of the proposed new enforcement powers must include all disclosure-related duties under the Companies Act, including duties in relation to the Strategic Report under Chapter 4A. Failure to provide adequate accountability and enforcement mechanisms in relation to information in the Strategic Report would be a significant omission that would severely undermine the quality and reliability of material information, including in relation to climate change-related risks and impacts.

31. Are there any existing or proposed directors' duties relating to corporate reporting and audit that you think should be specifically included or excluded from further elaboration for the purposes of the directors' enforcement regime?

As stated above, we believe that alongside broader sustainability disclosures, companies must be required to disclose how and to what extent their strategy and financial accounts are aligned with the Paris Agreement goal of limiting global temperature rise to 1.5 °C and, if they are not, what the implications of doing so would be for the company. The new regulator should be specifically given the power to impose more detailed requirements as to how these requirements should be met by directors.

32. Should directors of public interest entities be required to meet certain behavioural standards when carrying out their statutory duties relating to corporate reporting and audits? Should those standards be set by the regulator? What standards should directors have to meet in this context?

Directors of UK companies are already required to meet a range of legal behavioural standards when exercising their duties. Rather than introducing new standards, the new regulator should be empowered to hold directors accountable for breaches of their existing reporting and governance-related duties.

In Australia, for example, a strong public enforcement mechanism has been introduced for breaches of directors' duties, whereby, if a court is satisfied that a director has contravened a core directors' duty, it can impose a financial penalty, and disqualify the director. If a director breaches one of these duties and they are found to have been reckless or intentionally dishonest, they may also be found guilty of a criminal offence.

The corporate regulator in Australia, ASIC, has been granted extensive powers to investigate suspected breaches of the law, require the production of information, issue infringement notices, seek civil penalties from the courts and, in some cases, to commence criminal prosecutions. ASIC has investigated, referred and prosecuted a significant number of cases where directors of Australian companies have breached

their core duties. Evidence indicates that judicial proceedings brought by ASIC or referred to the Director for Public Prosecutions perform a significant role in the enforcement of directors' duties, constituting approximately half of all public and private proceedings involving breaches of directors' duties.[18]

We believe that the adoption of a similar regime in the UK would provide an effective means of ensuring that the statutory duties of UK company directors are enforced in alignment with the interests of investors, other stakeholders and the public interest.

33. Should the Government's proposed enforcement powers be made available to the regulator in respect of breaches of directors' duties?

Yes. As discussed in our response to Question 32, above, the Government's proposed enforcement powers must be made available to the regulator in respect of breaches of directors' new and existing reporting and governance duties.

5.2 Strengthening clawback and malus provisions in directors' remuneration arrangements

34. Are there other conditions that should be considered for the proposed minimum list of malus and clawback conditions? What legal and other considerations need to be taken into account to ensure that these conditions can be enforced in practice?

Yes, clawback and malus provisions should be required to apply to all breaches of directors' governance and reporting duties, including in relation to reporting and management of sustainability-related risks and impacts. In light of clear investor demand and significant public interest, specific attention should be given to failures by directors in relation to disclosures regarding the extent to which their strategy and financial accounts are aligned with the Paris Agreement goal of limiting global temperature rise to 1.5 °C.

6. Audit purpose and scope

6.1 The purpose of audit

35. Do you agree that a new statutory requirement on auditors to consider wider information, amplified by detailed standards set out and enforced by the regulator, would help deliver the Government's aims to see audit become more trusted, more informative and hence more valuable to the UK?

Unfortunately, the Government's proposals in relation to the purpose and scope of Audit fall a long way short of the recommendations of the Brydon review. The duty to take into account director conduct and other information included in the Annual Report, is already covered explicitly by mandatory standards, so the proposal to legislate this requirement, provides limited meaningful extension to auditors' existing duties (See, in particular, ISAs 315 and 720).

Instead, in order to meaningfully improve auditor oversight of director conduct and wider financial information (including for climate change-related risks and impacts), auditors must be required to provide a fully integrated audit which covers all information legally required to be disclosed in the annual report to the standard of 'reasonable assurance'.

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[18] See Jasper Hedges et al. 'An Empirical Analysis of Public Enforcement of Directors' Duties in Australia', CIFR Paper No. 105/2016

In light of clear investor demand and significant public interest, auditors should also be specifically required to undertake Paris-aligned audits that test accounts and key assumptions underpinning the audit against assumptions and estimates that are aligned with the goals of the Paris Agreement. They must also be required to disclose to shareholders any concerns about the compatibility of the company's assumptions and estimates with such a pathway.

36. In addition to any new statutory requirement on auditors to consider wider information, should a new purpose of audit be adopted by the regulator, or otherwise? How would you expect this to work?

Currently there is significant legal uncertainty about the purpose of an audit and for who it is conducted. This severely undermines the utility of the audit and adds to the expectation gap about audit's purpose and who it is for.

The foundational case on the scope and purpose of the audit (*Caparo v Dickman*) is now nearly 30 years old. The findings in that case, that auditors owe a duty of care only to existing shareholders of a company as a body, now no longer reflects social and economic reality. This case was based on a previous version of the Companies Act and before IFRS accounting standards and International Standards for Audit ("**ISAs**") were adopted. These developments all reflect a significant evolution in the purposes and audience of annual reporting and audit and indicate a significant expansion in the appropriate scope and duty of care owed by a company, and its directors and auditors for disclosed information.

The Government should therefore clarify that the purpose of the audit is to enhance the degree of confidence of reasonable users of information contained in annual reports. The definition of reasonable users should include:

- existing and potential shareholders and creditors (as well as their intermediaries, such as credit rating agencies and proxy advisers), who use the information in the annual report to inform their investment and stewardship decisions;
- government regulators who use the information to inform regulatory decisions (e.g. tax rates and liabilities, capital adequacy calculations (for banks), prudential regulation (banks and insurers), solvency);
- trustees of company pension funds, who use the information to make decisions about the strength of the sponsoring company's covenant and contribution rates to the pension fund; and
- employees, customers and broader stakeholders, who use company disclosures to make a range of decisions about their employment, purchasing decisions, and other matters that affect their rights and responsibilities.

As noted above, in order to give reasonable users of company reporting confidence in the reliability of disclosed information, auditors must be required to provide a fully integrated audit which covers the entire annual report to the standard of 'reasonable assurance'. This must include all information disclosed in the annual report, not just the financial accounts.

As noted above, in light of clear investor demand and significant public interest, auditors should also be specifically required to undertake Paris-aligned audits that test accounts and key assumptions underpinning the audit against assumptions and estimates that are aligned with the goals of the Paris Agreement.

6.2 Scope of audit

37. Do you agree with the Government's approach of defining the wider auditing services which are subject to some oversight by the regulator via the Audit and Assurance Policy?

As noted above, we do not agree with the proposed model which distinguishes artificially between the 'statutory audit' and the 'corporate audit', and is likely to cause increased confusion about the scope and purpose of the audit.

In order to give reasonable users of company reporting confidence in the reliability of all information required to be disclosed by legislation, auditors must be required to provide a fully integrated audit which covers the entire annual report to the standard of 'reasonable assurance'. This must include all information disclosed in the annual report, not just the financial accounts.

As the Brydon Review makes clear, expectations on company reporting have grown substantially in recent years. Increasing weight is placed by investors and other stakeholders on both qualitative and quantitative information about risks and impacts facing a business (including KPIs, scenario analysis and stress testing results, and other targets). This now includes a wide range of information about ESG issues which investors consider financially material for their investment and stewardship decisions and necessary to substantiate their claims to consumers in relation to 'green' or 'sustainable' investment products. This information is also used by a wide range of other stakeholders to inform economic and regulatory decisions.

Currently there is a low level of confidence in the quality and reliability of much of this broader financial and non-financial information included in annual reports, including in relation to climate change. From our observations there are currently significant problems with 'green washing' and 'bright-siding' in relation to this information, which means that it often conveys a misleading picture for users of annual reports or is otherwise very poor quality. As noted above there are also significant problems with inconsistency between the front end and the back end of annual reports.

Because of the extent to which this information is now relied on by investors, regulators and other stakeholders, we believe that it must now be fully integrated into the overall audit. In our view this, is essential to ensure that users have greater confidence that the information they are using to make decisions is fair, balanced and reasonable. It will also help address any perceived expectation gap in relation to the work which auditors are already required to do in relation to 'other information' contained in the annual report.

Additionally, in light of clear investor demand and the existing expectation gap, auditors of PIEs must be explicitly required to undertake 'Paris-aligned' audits that test accounts against assumptions and estimates that are aligned with the goals of the Paris Agreement and to flag to shareholders any concerns about the assumptions and estimates used by the company.

38. Should the regulator's quality inspection regime for PIE audits be extended to corporate auditing? If not, how else should compliance with rules for wider audit services be assessed?

As noted above we do not agree with the proposed distinction being made between 'statutory auditing' and 'corporate auditing'. However, if this proposal is adopted then it is important that these wider auditing services are also subject to oversight and supervision.

39. What role should ARGA have in regulating these wider auditing services? Should its role extend beyond setting, supervising and enforcing standards?

As noted above we do not agree with the proposed distinction being made between 'statutory auditing' and 'corporate auditing'. However, if this proposal is adopted then the regulator's inspection regime for PIE audits must cover all 'corporate auditing' of information that is required to be disclosed by law, and the regulator must have responsibility, adequate resource, and appropriate powers for setting, supervising and enforcing standards.

6.3 Principles of corporate auditing

40. Would establishing new, enforceable principles of corporate auditing help to improve audit quality and achieve the Government's aims for audit? Do you agree that the principles suggested by the Brydon Review would be a good basis for the regulator to start from?

We agree that a clear set of enforceable principles would help to improve audit quality. To be effective, however, these should be made by reference to a clearly defined purpose of audit, such as the one that we have suggested in our response to question 36, above.

That being said, we are broadly supportive of the principles suggested by the Brydon Review. In particular, we welcome the principle that auditors must act in the public interest and have regard to the interests of the users of their report beyond solely those of shareholders.

41. Do you agree that new principles for all corporate auditors should be set by the regulator and that other applicable standards or requirements should be subject to those principles? What alternatives, mitigations or downsides should the Government consider?

Subject to our comments in relation to Question 40, above, we agree that any new principles should be set by the regulator and underpin other applicable standards.

6.4 Tackling fraud

42. Do you agree with the Government's proposed response to the package of reforms relating to fraud recommended by the Brydon Review? Please explain why.

We have no comments in relation to this question.

6.5 Auditor reporting

43. Will the proposed duty to consider wider information be sufficient to encourage the more detailed consideration of i) risks and ii) director conduct, as set out in the section 172 statement? Please explain your answer.

No, we do not consider this to be sufficient. As noted above, auditors already have clear duties to consider wider information under existing audit standards, including information contained in the section 172 statement. Despite these requirements, there is limited evidence that this is being done adequately. For example, in ClientEarth's recent Accountability Emergency report, we found that just 4% of audit reports made any clear reference to climate change. This is despite clear demands from shareholder and expectations from regulators and standard setters.

In order to achieve a meaningful improvement in this area, auditors must be required to provide a clear opinion on this information as part of an integrated audit of the entire annual report. However, should the government decide not to mandate an integrated audit of the entire annual report, auditors should, at the very least, be required to audit and provide an opinion on the section 172 statement. Specific attention should also be required to be given to climate change-related factors when doing so.

6.6 True and fair view requirement

44. Do you agree that auditors' judgements regarding the appropriateness of any departure from the financial reporting framework proposed by the directors should be informed by the proposed Principles of Corporate Auditing? What impact might this have on how both directors and auditors assess whether financial statements give a true and fair view?

We disagree with this proposal. As required under the existing legal position, we believe that a better test is whether departure is required to meet stakeholders' needs and reasonable expectations. This provides an evidence-based standard against which directors' and auditors' decisions can be assessed, rather than leaving departures from the standards entirely at directors and/or auditors' discretion.

6.7 Audit of Alternative Performance Measures and Key Performance Indicators linked to executive remuneration

45. Do you agree that the need for specific assurance on APMs or KPIs, beyond the scope of the statutory audit, should be decided by companies and shareholders through the Audit and Assurance Policy process?

As we have noted above, in our view, auditors must be required to provide an integrated audit of the entire annual report, including in relation to any APMs, or KPIs that a company discloses. This is often highly material information that is frequently linked to executive remuneration and is critical to shareholder investment and stewardship decisions. It should therefore be subject to an equivalent level of audit as other information. This should be required on a mandatory basis for all PIEs.

6.8 Auditor liability

46. Why have companies generally not agreed LLAs with their statutory auditor? Have directors been concerned about being judged to be in breach of their duties by recommending an LLA? Or have other factors been more significant considerations for directors?

We have no comments in relation to this question.

47. Are auditors' concerns about their exposure to litigation likely to constrain audit innovation, such as more informative auditor reporting, the level of competition in the audit market (including new entrants) or auditors' willingness to embrace other proposals discussed in this consultation? If so, in what way and how might such obstacles be overcome?

Concerns about increased auditor liability must not get in the way of much needed improvements in auditor accountability, both to shareholders and to wider stakeholders. Any increase in potential liability for auditors would not be disproportionate or unreasonable given the benefit to stakeholders, and is necessary to ensure that higher quality audits are carried out in the interests of shareholders and broader stakeholders.

In contrast to many other major jurisdictions (in particular, the US), in the UK, shareholder litigation against companies and their auditors is relatively limited. Significant safeguards already exist in the legal system to constrain frivolous or vexatious litigation against auditors.

In our view, if auditors are truly to be accountable to broader stakeholders and the general public, then some mechanism for redress must also be provided to these groups. Failure to do so, may lead to accusations that rhetoric regarding the need for auditors to take into account broader public interests in

the interests of other stakeholders is hollow and not supported by adequate accountability mechanisms to make it effective.

6.9 A new professional body for corporate auditors

48. Do you agree that a new, distinct professional body for corporate auditors would help drive better audit? Please explain the reasons for your view.

We have no comments in relation to this question.

49. What would be the best way of establishing a new professional body for corporate auditors that helps deliver the Government's objectives for audit? What transitional arrangements would be needed for the new professional body to be successful?

We have no comments in relation to this question.

50. Should corporate auditors be required to be members of, and to obtain qualifications from, professional bodies that are focused only on auditing?

We have no comments in relation to this question.

51. Do you agree that a new audit professional body should cover all corporate auditors, not just PIE auditors?

We have no comments in relation to this question.

7. Audit Committee Oversight and Engagement with Shareholders

7.1 Audit Committees – role and oversight

52. Do you agree that ARGA should be given the power to set additional requirements which will apply in relation to FTSE 350 audit committees?

Audit committees play in important role in leading the director's engagement with management and auditors around key accounting and reporting matters, including in relation to the treatment and implications of principal risk and uncertainties, such as those associated with climate change.

We therefore agree that ARGA should be given powers to set additional requirements in relation to audit committees and their work. These requirements should however be applicable to all PIEs, and not just FTSE 350 companies.

53. Would the proposed powers for ARGA go far enough to ensure effective compliance with these requirements? Is there anything further the Government would need to consider in taking forward this proposal?

We agree, that the new regulator should be given clear powers and appropriate remedies to enforce any breaches of new requirements on audit committees. This should include a range of powers and remedies, including the ability to conduct investigations, seek information, make public findings and issue sanctions against audit committee members and other directors.

7.2 Independent auditor appointment

54. Do you agree with Sir John Kingman's proposal to give the regulator the power to appoint auditors in specific, limited circumstances (i.e. when quality issues have been identified around

the company's audit; when a company has parted with its auditor outside the normal rotation cycle; and when there has been a meaningful shareholder vote against an auditor appointment)?

We have no comments in relation to this question.

55. To work in practice, ARGA's power to appoint an auditor may need to be accompanied by a further power to require an auditor to take on an audit. What do you think the impact of this would be?

We have no comments in relation to this question.

56. What processes should be put in place to ensure that ARGA can continue to undertake its normal regulatory oversight of an audit firm, when ARGA has appointed the auditor?

We have no comments in relation to this question.

57. What other regulatory tools might be useful when a company has failed to find an auditor or in the circumstances described by Sir John Kingman (i.e. when quality issues have been identified around the company's audit; when a company has parted with its auditor outside the normal rotation cycle; and when there has been a meaningful shareholder vote against an auditor appointment)?

We have no comments in relation to this question.

7.3 Shareholder engagement with audit

58. Do you agree with the proposals and implementation method for giving shareholders a formal opportunity to engage with risk and audit planning? Are there further practical issues connected with the implementation of these proposals which should be considered?

We agree with proposals to provide shareholders a more formal opportunity to engage with risk and audit planning. In our view, a process should also be put in process to allow other key stakeholders (e.g. employees, civil society) to provide formal input.

Historically, however, investors have only engaged in the audit process to a limited extent. Consideration should therefore also be given to how shareholders and other stakeholders could be incentivised to engage more meaningfully in this process. This could be achieved through updates to the UK Stewardship Code, or through additional regulatory guidance.

59. Do you agree with the proposed approach for ensuring greater audit committee chair and auditor participation at the AGM? How could this be improved?

We agree with the Brydon Review suggestion that the senior company auditor and audit committee chair be required to attend the AGM and be prepared to answer questions. We believe that changes to legislation should be made to create a standing AGM agenda item for questions to be put to the audit committee chair and the auditor. This would facilitate direct public accountability to shareholders and other stakeholders, including in relation to climate change-related matters.

60. Do you believe that the existing Companies Act provisions covering the departure of an auditor from a PIE ensure adequate information is provided to shareholders about an auditor's departure? If you believe those provisions are inadequate, do you think that the Brydon Review

recommendations will address concerns in this area? What else could be done to keep shareholders informed?

We have no comments in relation to this question.

8. Competition, choice and resilience in the audit market

8.1 Market opening measures

61. Should the 'meaningful proportion' envisaged to be carried out by a Challenger be based on legal subsidiaries? How should the proportion be measured and what minimum percentage should be chosen under managed shared audit to encourage the most effective participation of Challenger firms and best increase choice?

We have no comments in relation to this question.

62. How could managed shared audit be designed to incentivise Challenger firms to invest in building their capability and capacity? What, if any, other measures, would be needed?

We have no comments in relation to this question.

63. Do you have comments on the possible introduction in future of a managed market share cap, including on the outlined approach and principles? Are there other mechanisms that you think should be considered for introduction at a future date?

We have no comments in relation to this question.

8.2 Operational separation between audit and non-audit practices

64. Do you have any further comments on how the operational separation proposals should be designed, codified (in legislation and regulatory rules), and enforced in order to achieve the intended outcome of incentivising higher audit quality?

We have no comments in relation to this question.

65. The Government proposes to require that all audit firms provide annual reports on their partner remuneration to the regulator. This will include pay, split of profits, and which audited entities they worked on. Do you have any comments on this approach?

We have no comments in relation to this question.

66. In the event that the Government wishes to go further than the existing operational split proposals in future and implement split profit pools in line with the CMA recommendation, do you have any comments on how these can be made to work effectively?

We have no comments in relation to this question.

67. The Government believes these proposals will meet its objectives. In the event that they prove insufficient to improve audit quality, and full separation of professional services firms is required, do you have any comments on how to make this work most effectively?

We have no comments in relation to this question.

8.3 Resilience of audit firms and the audit market

68. Do you have comments on the proposed measures? Are there any other measures the Government should consider taking forward to address the lack of resilience in the audit market?

We have no comments in relation to this question.

9. Supervision of audit quality

9.1 Approval and registration of statutory auditors of PIEs

69. Do you agree with the Government's approach of allowing the FRC to reclaim the function of determining whether individuals and firms are eligible for appointment as statutory auditors of PIEs?

We have no comments in relation to this question.

9.2 Monitoring of audit quality

70. What types of sensitive information within AQR reports on individual audits should be exempt from disclosure?

We have no comments in relation to this question.

71. In addition to redacting sensitive information within AQR reports on individual audits, what other safeguards would be required to offer adequate protection to the entity being audited whilst maintaining co-operation with their auditors?

We have no comments in relation to this question.

9.3 Regulating component audit work done outside the UK

72. Do you agree with the Government's approach to component audit work done outside the UK? How could it be improved?

We have no comments in relation to this question.

9.4 The application of legal professional privilege in the regulation of statutory audit

73. Do you agree that it is problematic if documents that the auditor reviewed as part of the audit are unavailable to the regulator because of the audited entity's legal professional privilege? If so, what could be done to solve or mitigate this issue while respecting the overall principle of legal professional privilege?

We have no comments in relation to this question.

10. A strengthened regulator

10.1 Establishing the regulator

74. Do you agree with the proposed general objective for ARGA?

We have no comments in relation to this question.

75. Do you agree that ARGA should have regard to these regulatory principles when carrying out its policy-making functions? Are there any other regulatory principles which should be included?

We have no comments in relation to this question.

11. Additional changes in the regulators responsibilities

11.1 Supervision: Accountants and their professional bodies

76. Should the scope of the regulator's oversight arrangements be initially confined to the chartered bodies and should they be required to comply with the arrangements?

We have no comments in relation to this question.

77. What safeguards, if any, might be needed to ensure the power to compel compliance is used appropriately by the regulator?

We have no comments in relation to this question.

78. Should the regulator's enforcement powers initially be restricted to members of the professional accountancy bodies? Should the Government have the flexibility to extend the scope of these powers to other accountants, if evidence of an enforcement gap emerges in the future? What are your views on the suggested mechanisms for extending the scope of the enforcement powers to other accountants (if it is appropriate at a later stage?

We have no comments in relation to this question.

79. Should the regulator be able to set and enforce a code of ethics which will apply to members of the chartered bodies in the course of professional activities? Should the regulator only be able to take action where a breach gives rise to issues affecting the public interest? What sanctions do you think should be available to the regulator?

We have no comments in relation to this question.

11.2 Oversight and regulation of the actuarial profession

80. Is ARGA the most appropriate body to undertake oversight and regulation of the actuarial profession?

We have no comments in relation to this question.

81. Should the regime for overseeing and regulating the actuarial profession be placed on a strengthened and statutory basis?

We have no comments in relation to this question.

82. Do respondents support the proposed principles for the regulation of the actuarial profession? Respondents are invited to suggest additional principles.

As has now been implemented for the UK's other key financial regulators, in pursuing its objectives, ARGA must be required to have regard to the government's commitment to achieve a net-zero economy by 2050 under the Climate Change Act 2008 when considering how to advance its objectives and discharge its functions, including in relation to actuarial oversight and regulation.

83. Are the proposed statutory roles and responsibilities for the regulator appropriate? Are any additional roles or responsibilities appropriate for the regulator?

We have no comments in relation to this question.

84. Should the regulator continue to be responsible for setting technical standards? Should these standards be legally binding? Should the regulator be responsible for setting technical standards only?

We have no comments in relation to this question.

85. Should the regulator be responsible for monitoring compliance with technical standards? Should it also consider compliance with ethical standards if necessary?

We have no comments in relation to this question.

86. Should the regulator have the power to request that individuals provide their work in response to a formal request - and to compel them to do so if necessary?

We have no comments in relation to this question.

87. Should the regulator have the power to take appropriate action if work falls below the requirements of the technical standards? What powers should be available to the regulator in these instances?

We have no comments in relation to this question.

88. Do respondents agree with the proposed scope for independent oversight of the IFoA? In which ways, if any, should the scope be amended?

We have no comments in relation to this question.

89. Should the regulator's oversight of the IFoA be placed on a statutory basis? What, if any, powers does the regulator require to effectively fulfil this role?

We have no comments in relation to this question.

90. Does the current investigation and discipline regime remain appropriate? Should it be placed on a statutory basis? What, if any, additional powers does the regulator require to fulfil this role?

We have no comments in relation to this question.

91. Do respondents think that the regulator's remit should be extended to actuarial work undertaken by entities? What would be the appropriate features of such a regime, including the appropriate enforcement powers for the regulator?

We have no comments in relation to this question.

92. Should the regulator's independent investigation and discipline regime for matters that affect the public interest also apply to entities that undertake actuarial work? Should the features of the regime differ for Public Interest Entities?

We have no comments in relation to this question.

93. Does the regulator require any further powers in relation to its regulation and oversight of the actuarial profession?

We have no comments in relation to this question.

11.4 Powers of the regulator in cases of serious concern

94. Are there others matters which PIE auditors should have to report to the regulator? Could this duty otherwise be improved to ensure that viability and other serious concerns are disclosed to the regulator in a timely way?

In light of clear investor demand and strong public interest, auditors should also specifically be required to disclose failures in climate change-related governance, risk management and reporting, that could affect company viability.

95. Should auditors receive statutory protection from breach of duty claims in relation to relevant disclosures to the regulator? Would this encourage auditors to report viability and other concerns to the regulator?

Yes. This is an important protection to ensure that auditors are not unduly dis-incentivised from carrying out their work in the interests of shareholders and the broader public.

96. How much time should be given to respond to a request for a rapid explanation?

We have no comments in relation to this question.

97. Should the regulator be able to publish a summary of the expert reviewer's report where it considers it to be in the public interest?

Yes. This is an important mechanism for increasing transparency and public trust in corporate reporting, audit activity and the regulators activities.

98. Are there any additional powers that you think the regulator should have available where an expert review identifies significant non-compliance by a company in relation to its corporate reporting and audits?

We have no comments in relation to this question.

Joanne Etherton

Senior Lawyer, Climate Finance Lead

jetherton@clientearth.org

www.clientearth.org

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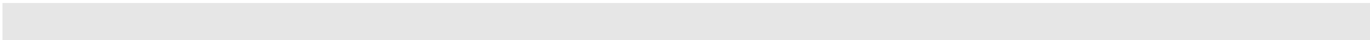

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