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Dear Mr Kelly

Post-EU Draft Order

We welcome the CMA's decision to consult on *The Statutory Audit Services for Large Companies Market Investigation (Mandatory Use of Competitive Tender Processes and Audit Committee Responsibilities) Order 2014* ("Order"). We outline our comments in this letter.

Alignment with EU audit legislation

It is helpful, in terms of reducing regulatory complexity for companies, that the CMA is seeking to align its transitional arrangements for mandatory tendering with the EU's transitional arrangements for mandatory audit firm rotation.

However, we question whether now is the right time for the CMA to finalise its Order: at a time when the Department for Business Innovation & Skills and Financial Reporting Council have significant work to do between now and mid-2016 to integrate the EU legislation into UK law and regulation. As that work becomes substantially complete the CMA would be in a better position to identify what more needs to be done via an Order to give effect to its remedies. It would also reduce the risk of unintended consequences and unnecessary complexity that arises by doing it now (see below); so saving cost to UK companies.

Sub-eleven year tenures

The requirement to tender every ten years as contemplated in the Order is clear. However, we ask the CMA to consider further the interplay with the EU's reforms and how they would apply in practice in the context of PIEs whose auditors have been in place for less than 11 years. The position of these companies under the EU reforms is still somewhat unclear.

For example, on one interpretation of the EU legislation if a PIE FTSE350 company appointed its auditors in 2005, tendered in 2015 and retained the incumbent, the company would have to tender again only a year later in 2016 (in order to extend the tenure of that auditor for up to 20 years¹).

This is because EU legislation looks at tenure periods, not when the last tender was. That would place a considerable burden on business and raises the question whether this can really be the intention of the reforms. This is a prime example of why we suggest above the CMA should wait.

Discontinuity for companies leaving and then re-entering the FTSE 350

The Order is to apply to the FTSE350 whose constituents are reviewed every three months. It is unclear how the Order would apply/re-apply to a company which drops out of and is subsequently re-admitted to the FTSE350. What period of time is taken into consideration when considering the next announcement by the audit committee (date of upcoming tender) and the tender itself? Similarly, if a company drops out of the FTSE350, what happens then? Would it have to honour the date of tender announced when it was in the index? Some more guidance here would be useful.

Monitoring and compliance

We note the Order's requirement for auditors, when requested by the CMA, to produce a report about its FTSE350 audit clients and their compliance with the Order.

This simply shifts the burden of monitoring compliance with the Order from the regulator to the suppliers. We believe this is inappropriate, particularly when all of the information requested should be available publicly in companies' annual reports.

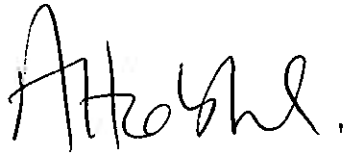
Audit committees approvals

In relation to Article 5.1(e), there may be circumstances where urgent approval is needed. Where the audit committee chairman is unavailable for whatever reason, it would be helpful to companies if an audit committee member had the power to authorise an auditor to provide non-audit services. An amendment to this effect would give companies more flexibility while still keeping the responsibility with the audit committee.

¹ We understand from the Order (para 9) that the UK Government intends to take advantage of the derogation that allows PIEs to extend an auditor's tenure for up to 20 years.

If you have any questions on our comments, or wish to discuss any of the issues raised, please contact me at EY using the details overleaf. Thank you again for consulting on the Order. For the avoidance of doubt this letter is not confidential and we would welcome its publication on the CMA website.

Yours sincerely



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