REGISTRY ROUND-UP

October 2019

Welcome to your October round-up. We are bringing you highlights from the registry world, key dates for you to be aware of, all current and relevant industry updates and a market update provided by Georgeson.

This month we will cover:

Industry update

- Market Abuse Regulation Review
- FCA Handbook Changes
- Payment Practices Guidance
- QCA Audit Committee Guide
- Electronic Document Execution
- Global News:
    - ISS Benchmark Policy Survey

Georgeson market update

- International:
    - High Cost of Not Disclosing
    - Investor Stewardship Group's Conference
- UK:
    - Align Directors' Pensions to Workforce

Industry update

Market Abuse Regulation Review

In our May 2019 newsletter, we featured a review of the Market Abuse Regulation by European Issuers, the pan-European organisation representing the interests of publically quoted companies throughout Europe, and referenced an anticipated review of the regulation as required by the European Commission.

The European Securities and Markets Authority (ESMA) have now published a consultation on the regulation which is focusing on several areas including:

- **Article 38 topics**
  The appropriateness of introducing common rules on member states providing administrative sanctions for insider dealing and market manipulation. Definition of inside information and trading prohibitions for PDMRs.

- **MARs Scope**
  Topics connected with the Commission's mandate on the scope of the regulation which includes buy-back programmes, delayed disclosure, usefulness of insider lists, aspects of PDMR notification requirements. FTSE 350 clients may remember that at the end of the Capital Analytics survey there was a question posed regarding MAR, and we have already noted your comments. If any further clients have feedback on the operation of MAR in the context of this review, please feel free to contact your Client Manager. We will consider the extent to which we feel best placed to respond. If you have strong views on the subject, we would encourage you to engage directly.

The consultation (found here) is open until 29 November 2019, following which ESMA will develop their review report and submit it to the European Commission in the spring of 2020.

FCA Handbook Changes

The latest Financial Conduct Authority (FCA) consultation (found here) is proposing a number of minor changes to some of their handbooks including the Listing Rules, Transparency Rules and Prospectus Rules. The changes include:

- **Governance Code**
  Updating references to the Corporate Governance Code, such as under Listing Rule 9, which makes reference to the contents of the annual report and accounts. The changes will apply to financial years beginning on or after 1 January 2019.

- **European Single Electronic Format**
  Part of the amended EU Transparency Directive required all annual financial reports for companies whose securities are listed on a regulated market to be published in the required electronic format for financial years beginning on or after 1 January 2020. The FCA is proposing adding a provision to the transparency rules to reflect this requirement. In the event that the UK leaves Europe before January 2020 without a deal, the changes won't be applied and the FCA will likely consult on a separate yet similar standard in due course. The consultation on these aspects will close on 1 November 2019.

  Some of the changes are to accommodate the potential of a no-deal Brexit and are in addition to any previous changes reflected in prior consultations. One notable proposed change is:

- **Related party transactions**
  Proposed changes to DTR 7.3 which were last amended to reflect the introduction of the revised Shareholder Rights Directive will include requiring issuers to use the definition of 'related party' contained in the

International Financial Reporting Standards. Furthermore, there is the removal of an exemption from compliance for issuers who comply with corresponding requirements in an EEA state.
The consultation on the no-deal Brexit proposals closed on 4 October.

Payment Practices Guidance

Updated guidance has been published by the Department for Business, Energy & Industrial Strategy (BEIS) on how large companies are to report on their payment practices, policies and performance.
Organisations within scope must produce a report every six months on their payment practices and submit it to a Government website for publication. This is the first update to the guidance since it was last amended in October 2017 and the changes include:

- **Qualifying Contracts**
  Updates have been made to what constitutes a 'qualifying contract' which has a 'significant connection' to the UK.

- **Governance Standard Payment Period**
  The updated guidance now reflects that where an organisation has more than one standard payment period, they must document in their report both the longest and shortest period together with an explanation on what each period is used for.

- **Frequently Asked Questions**
  The accompanying FAQs have been updated with additional questions that include the treatment of direct debits, credits notes and that calculations should be based on calendar and not working days.
  The guidance can be found here.

QCA Audit Committee Guide

The last time that the Quoted Companies Alliance (QCA) published their guide on Audit Committees for small and mid-size quoted companies was in November 2014, so the comprehensive changes seen within this publication reflect a breadth of practice, legal and regulation changes that the market has seen over the last four and half years.
The guide considers a number of key areas including what makes an effective audit committee, risk management, relations with external auditors and audit committee reports.

The guide also contains useful suggestions on work to be undertaken by audit committees and an induction framework.

The guidance can be purchased from the QCA here.

Electronic Document Execution

The Law Commission have published their report on the electronic execution of documents (found here). The report makes several recommendations including the creation of a multi-disciplinary industry working group to consider practical issues arising from the execution of documents electronically.

The commission's review, conducted at the behest of the Ministry of Justice, has confirmed that electronic signatures can be used including where there is a statutory requirement for a signature.

Global News

ISS Benchmark Policy Survey

ISS have published the results of their annual benchmark policy survey (found here) which received almost 400 responses, 60% of which were from US-based organisations. The annual survey forms part of ISS's annual policy development process.

Key findings from the survey were:

- **Board Gender Diversity**

It was agreed by both investors and non-investors that gender diversity within boards was an essential attribute to effective governance regardless of company or market.

- **Director Overboarding**
  A significant number of investor respondents identified that four board positions was the appropriate maximum limit for non-executive directors and that only two positions was appropriate for a CEO (i.e. the CEO's company plus one other). However, non-investors felt that a general limit should be applied and each board should be allowed to consider what is best and so act accordingly.

- **Climate Change**
  A majority of respondents agreed that climate change should be a high priority aspect of an organisations risk assessment. Over 60% of investor respondents also felt that companies should be assessing and disclosing climate related risks and taking necessary steps to mitigate them where possible.

Georgeson market update

Georgeson are proud to present their 2019 Annual European Proxy Season Review.

They have worked hard to ensure that issuers understand the critical issues, trends and personalities which affect and motivate their shareholders, so that they don't become a statistic highlighted in this or any other report.

It's hoped that the report will give issuers greater insight into general trends and particular issues that have arisen during the 2019 AGM season.

The report considers these trends and issues across eight of the largest European markets including the UK, where it has identified a decrease in negative voting principally due to greater issuer responsiveness to stakeholders and less negative ISS voting recommendations. The UK has also seen relatively stable quorums (percentage of the issued capital voting at meetings) over the last five years with significant fluctuation only really being seen when remuneration policies are brought to shareholders.

The full range of insights can be viewed by downloading the report here.

International

High Cost of not disclosing

The Wall Street Journal reports about The Potentially High Cost of Not Disclosing ESD Data: Activist investors push companies to disclose information about their environmental and social impact.

"To be sure, most companies that don't disclose aren't subject to divestment. Rather, the goal of activist ESG-focused investors is to start a conversation with corporate leaders about ESG issues. But without information, there is nothing to talk about. And while companies that don't disclose environmental and social data may not always lose investors, they are more often being passed over by new investors, in favour of firms with better disclosure practices, ESG investors say."

Investor Stewardship Group's Conference

Georgeson has published a blog post entitled Top 6 Takeaways from the Investor Stewardship Group's Conference

“On Friday, September 13, investors and issuers gathered together at the University of Delaware's Weinberg Center for Corporate Governance for the Investor Stewardship Group's (ISG) inaugural Corporate Issuers Conference (the Conference).

UK

Align directors’ pensions to workforce

The Investment Association has reported that companies should be prepared to align directors’ pensions to those of the workforce by 2022, or face shareholder dissent. Read the full story here.

“Companies must set a credible plan to pay all executive directors the same pension contributions as the majority of their workforce by the end of 2022 or risk further shareholder dissent, the Investment Association has warned. Under new guidelines published today ahead of next year’s AGM season, companies with existing directors who are paid more than 25% of salary as a pension contribution will be given a ‘red top’ - the highest level of warning by the IA’s Institutional Voting Information Service (IVIS) - unless they have set out a credible action plan to bring their contributions in line with the workforce by the end of 2022. This new guidance by the IA, which represents over 250 UK investment management firms who manage over £7.7 trillion of assets, follows changes to the UK Corporate Governance Code and the IA’s Principles of Remuneration last year to align executive pension contributions with the workforce. In February 2019 the IA’s guidance set out investors’ expectations to see executive directors paid pension contributions in line with the majority of the workforce, and this latest set of guidelines represent the next step in shareholder expectations on listed companies.”

Battle Over Influence

The Financial Times reports that Battle brews over influence of shareholder advisers
"Proxy groups have been at forefront of battles between companies and investors."