REGISTRY ROUND-UP

May 2019

Welcome to your May 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

- The Shareholder Rights Directive – Directors' Remuneration
- Stewardship Code – Consultation Responses
- European Issuers – Review of MAR
- Fifth Money Laundering Directive
- Global News
- Irish Central Register of Beneficial Ownership

Georgeson market update

- Vanguard's 2019 Voting Policy
- UK
- International

Shareholder Rights Directive – Directors' Remuneration

The UK Government has released draft regulations (found here) which are intended to implement aspects of the revised Shareholder Rights Directive (SRD) that focus on directors' remuneration. Subject to approval the new regulations will come into force on 10 June 2019, the date on which changes to the SRD must be implemented. Many of the directors' remuneration requirements are principally the same as those imposed on UK incorporated quoted companies under the Companies Act 2006 & the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008.

However, there are some differences to the current UK regime including:

- **Chief Executive Officer**
  The draft regulations will bring into scope any CEO or deputy CEO who are not directors so that their remuneration is subject to the remuneration policy and report.

- **Disclosures following approval of a directors' remuneration policy**
  Following the approval by shareholders of a remuneration policy, a company will need to disclose the:
    - Number of votes validly cast
    - Number of votes cast in favour or against and abstentions
    - The proportion of the company's issued share capital represented by the votes.

- **Approval of a directors' remuneration policy**
  If a policy is not approved by shareholders, the company will have to propose a revised policy at the next AGM, whereas currently they can propose a new policy no more than three years later.

- **Additional directors' remuneration report disclosures**
  The draft regulations will make some changes to the current directors' remuneration report which would in future have to include:
    - Additional disclosures in the directors' single total figure table
    - A need to report on the annual percentage change of each director's remuneration, together with a comparison annual percentage change of an average employee, over a five year rolling period
    - Additional disclosures in respect of the review and implementation of the remuneration policy.

Each of these requirements has slightly different implementation dates under the draft regulations. For quoted companies they are:

- Changes in relation to remuneration policy apply to any policy approved on or after 10 June 2019
- Announcement requirements apply to policies approved on or after 10 June 2019
- Changes to report disclosures apply for the first financial year beginning on or after 10 June 2019.

Stewardship Code – Consultation Responses

The Financial Reporting Council has now published the responses (found here) to their consultation on the proposed changes to the UK Stewardship Code.

The FRC received over 90 responses including ones from Institute of Chartered Secretaries and Administrators, the Quoted Companies Alliance, ShareSoc, the Investment Association, ShareAction and the General Council 100. There have been several concerns raised in responses about the expansion of the definition of stewardship to include non-listed equities and different asset classes, but unsurprisingly ShareAction and ShareSoc were among those respondents supportive of a broader reach for the code.

A recent update found in the FRC's draft plan and budget indicates that the updated code is to be published sometime during their 2019/2020 financial year.

European Issuers – Review of MAR

European Issuers, the pan-European organisation which represents the interests of publically quoted companies throughout Europe to EU institutions, has published a review of the existing Market Abuse Regulation (found here).

Their review has been conducted ahead of an anticipated 3 year review which is required to be done by the European Commission under Article 38 of the regulation. The Commission's review as per the regulation will look at whether, among other things, common rules need to be introduced regarding the administration of sanctions for insider dealing and market manipulation, whether existing definitions within the regulation are sufficient and if there is a possibility of establishing a Union framework for cross-border order book surveillance.

The European Issuers review considers some of these aspects and also looks at the overall scope of the application of MAR, together with some specific observations on improvements to the management of insider lists and PDMR reporting.

If you have any particular suggestions on how MAR could be improved from the perspective of an issuer practitioner, please feel free to provide us with the details. When the European Commission conduct their anticipated review, this would potentially help us with framing a response.

Fifth Money Laundering Directive

Her Majesty's Treasury (HMT) has published a consultation (found here) looking at the transposition of the Fifth Money Laundering Directive (5MLD), which will expand the scope of the current framework within the UK.

The consultation will play a role in deciding how the UK transposes the directive in a way that balances the burden on businesses with the need for regulated business to actively discourage money laundering and terrorist financing activities.

The consultation is open until 10 June 2019, with HMT looking to introduce the directive into national law by 10 January 2020.

Irish Central Register of Beneficial Ownership

The Irish government has recently signed a new statutory instrument which addresses Article 30 of the Fourth Money Laundering Directive, which required corporate and legal entities to retain current information on beneficial holders.

The SI (found here) confirms the intention of the Irish government to direct the Registrar of Companies to be appointed as the registrar for such information. The Register of Beneficial Ownership (RBO) will come into operation on 22 June 2019.

Companies can carry out online filings from this date, after which they will have five months in which to file the required information without being in breach of their statutory obligations. Companies should expect to receive a communication from the office of the RBO regarding their filing obligations in the coming weeks.

The regulations won't apply to a company listed on a regulated market which is subject to disclosure requirements that are consistent with the law of the European Union, or which are subject to equivalent international standards that provide for adequate transparency of ownership information. More information can be found on the Companies Registration Office website here.

Global News

German Corporate Governance

Last November saw the German Corporate Governance Code Commission publish a revised code for consultation (found here). While the revised code was due to be released around the 10 June 2019, it is now likely that there will be a delay in the introduction of the new code based on a recent speech by the Commission's chairman (German version found here).

This delay is, in part, due to the requirement for the German government to also implement the requirements of the revised Shareholder Rights Directive (SRD). The Commission has stated that, depending on the speed of progress in implementing the requirements of the revised SRD, a draft of the new code is being considered for publication in May 2019, which will take into account the consultation responses and leave the door open for the Commission to accept further feedback thereafter.

ESG Investing

A survey produced by FTI Consulting which is entitled 'Injection of ESG Builds Corporate Value' (found here) which obtained responses from 130 global institutional investors who represent over $8.4 trillion in assets under management, has identified some key trends:

- 87% of respondents found that high ESG ratings add value to a company, with extremely positive ratings equating to an extra 22% in corporate value
- 54% of respondents also stated that they didn't know how the most well known rating services compile their ESG ratings
- 23% of respondents rated corporate governance as the most important ESG aspect to consider when making investment decisions, closely followed by business operations at 22%
- The five most important corporate governance aspects were: Ethics and Integrity (76%), Anti-Corruption (69%), Board Leadership (65%), Operational Transparency (64%) and Risk Management (61%).

The report makes clear that in order for an organisation to improve their ratings, they need a sound communications strategy and goes on to suggest practices what may facilitate better ratings.

Computershare

Vanguard’s 2019 Voting Policy

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Georgeson has published a memo about Vanguard’s 2019 Voting Policy updates.

“Georgeson has identified 230 NEOs who sit on more than two public company boards who are likely to be affected by this policy. Similarly, there are 142 non-executive directors who sit on more than four public company boards.”

UK

Shareholders take company auditors to task

The Financial Times reports that Shareholders take company auditors to task

“The two used to be indifferent but not now — expect more AGM challenges.”

Push ahead with bonus extension despite investor backlash

The Daily Telegraph reports that Micro Focus pushes ahead with bonus extension despite investor backlash.
“Software giant Micro Focus will push ahead with plans to give bosses more time to win £270m in bonuses, despite the proposal having been shot down by investors. At the company’s annual general meeting, shareholders rejected the company's remuneration report by a slim margin, with 50.4pc voting against the plan.”

Activists want more

The Financial Times reports that Activist investors start asking for more in board battles.

“Funds are asking for twice the seats they really want to force a deal.”

International

ESG funds must justify their green credentials

Reuters reports that Hong Kong regulator says ESG funds must justify their green credentials.

“Hong Kong’s securities regulator has told funds who claim to consider environmental, social or governance (ESG) factors in their investment decisions to make it clear to their investors how it is they do so. The Securities and Futures Commission (SFC) said in a Thursday circular that a majority of the more than 20 funds it has authorized that claim an investment focus on ESG do not specifically disclose how they incorporate such factors into their investment selection process.”

Trying to make ESG investing more popular

Barron’s reports about How the World’s Largest Pension Manager Is Trying to Make ESG Investing More Popular

CERTAINTY INGENUITY ADVANTAGE

"The financial industry has jumped on the impact investing and environmental, social or governance – or ESG – bandwagon. But Hiromichi Mizuno, the man who oversees $1.6 trillion in the world's largest public pension fund, says true believers on Wall Street are still hard to find, so he is taking his own steps to push ESG and impact investing off the sidelines. As chief investment officer of Japan's Government Pension Investment Fund, Mizuno requires his asset managers to integrate ESG into their investment analysis – among many changes he has brought to the pension fund since taking the helm in late 2014. But while Mizuno told Barron's there is growing consensus that using ESG criteria can lower risk, he routinely gets pushback. Despite the recent hype around ESG and impact investing, he says most on Wall Street and in asset management aren't actually doing it."

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