Monthly Roundup

Georgeson

February 2017

Dear All,

Please find below a rundown of recent corporate governance news and developments that have taken place around the world:

Shareholder Activism

- The Wall Street Journal reports about **Safran-Zodiac: When Voting With Your Feet Works Better Than Shareholder Activism**: https://www.wsj.com/articles/when-voting-with-your-feet-works-better-than-shareholder-activism-1487757389. "Safran, a major supplier of aircraft engines and other parts, last month announced the acquisition of Zodiac, a crisis-struck manufacturer of aircraft seats and cabin-fittings. […] Judging by the market reaction to the deal, other investors agree. Safran shares fell 5.4% on the day of the announcement and still haven't made up their losses. TCI's complaints may nonetheless fall on deaf ears. Shareholders don't get a vote on cash deals under French stock-market rules, which invest more power in management than elsewhere. They do get a kind of vote on the Zodiac takeover, because of a complex structure designed to give the Zodiac family shareholders a stake in the combined business. However, the vote only happens after a tender-offer for Zodiac shares, by which time Safran would own a majority stake in the business. Rejecting a full takeover would then be self-punishing, and leave a minority stake in Zodiac in limbo on the stock exchange. Regardless, TCI is trying to muster up support for a rejection. There is a more obvious course of action for frustrated Safran shareholders: sell. […] TCI is to be commended on its long-term approach, but a fundamental disagreement with management over strategy is a valid reason to cash in. If enough investors follow, the share-price fall could even prompt Safran to reconsider. In countries where investor activism is unwelcome, voting with your feet remains the most effective form of protest." See here for the TCI letters: http://www.astrongersafran.com/Default.aspx and here for Safran's response: http://www.safran-group.com/media/response-safrans-board-directors-tci-fund-management-ltd-20170223.

- The Lex Column reports that **ABB is keeping its friends close and its enemies closer**: https://www.ft.com/content/0434c0f6-f91a-11e6-9516-2d969e0d3b65. "Realpolitik dictates we keep friends close and enemies closer. ABB will have a clear line of sight to both when it makes Lars Forberg a director. He is managing director of Cevian Capital, which has campaigned for a spin-off of ABB's power grids division. He will sit alongside a representative of Investor, a vehicle of the Wallenberg family, which supports the status quo. ABB boss Ulrich Spiesshofer should beware lest Cevian changes Investor's view, rather than vice versa That might be no bad thing for independent shareholders. Cevian's case against ABB was that its size and complexity makes it hard to control. As if in confirmation, ABB on Wednesday revealed a $100m provision against 'significant embezzlement' at a South Korean subsidiary. If the engineer thought the Cevian appointment would lessen the shock of the write-off, it worked. Shares close to their post-crisis high barely budged. Some saw the board news as a sign that Cevian will no longer seek a break-up. That is premature. Low-profile Cevian, which manages more than €10bn, is at the consensual end of the activist spectrum. But it also has the staying power needed to fight long battles. A board seat gives it a vantage point from which to assess ABB's structure."

- The Sunday Times reports that **William Hill investor urges sale**: http://www.thetimes.co.uk/article/william-hill-investor-urges-sale-x7cx6l5zk. "A secretive hedge fund backed by the financier who waged activist campaigns against Volkswagen and Deutsche Börse is lobbying for a sale of William Hill. Parvus Asset Management, which is an affiliate of billionaire Sir Chris Hohn's Children's Investment Fund, has been pushing for a sale of the bookie for the past four months, according to City sources. Parvus is William Hill's biggest shareholder with about 14% of the stock, which it has built up through derivatives. The fund opposed the gambling giant's attempts to merge with Amaya, the Canadian owner of the PokerStars website, last October. It said the deal would destroy shareholder value. However, it is understood that Parvus supports the sale of the company to other potential bidders. During the talks with Amaya, it proposed a merger between William Hill and GVC Holdings, the London-listed online gaming operator."

- The Financial Times reports that **Top Ocado investors hold more than 100% of shares**: https://www.ft.com/content/6b7c8a5a-eec0-11e6-930f-061b01e23655. "The top 26 investors in Ocado have claims on more than 100 per cent of the online grocer's shares, an unusual situation created by its main shareholders buying borrowed stock and in effect acquiring double rights to some holdings. The high concentration of Ocado share ownership is likely to increase volatility in the company's share price. This heightens the risks for short sellers in a stock where their combined negative bets represent a large proportion of the shares available to be bought and sold. Hedge funds have borrowed 18.4 per cent of the Ocado shares in issue, making it the third most shorted UK stock on that basis, according to Markit."

- Slaughter and May have published a briefing entitled **Share splitting and takeover schemes: the Dee Valley case**: https://www.slaughterandmay.com/what-we-do/publications-and-seminars/publications/newsletters-and-briefings/2017/share-splitting-and-takeover-schemes-the-dee-valley-case/. "In Re Dee Valley Group plc, the court was asked to consider the validity of splitting shareholdings for the purpose of defeating the "majority in number" test in a scheme of arrangement used to effect a takeover. In the first case to consider the question, the High Court ruled that the votes of shareholders who had acquired their shares from a person splitting his holding with the sole purpose of defeating the scheme were invalid. This briefing considers the Court's judgment and its implications for takeover schemes."

- The Financial Times reports that **US rail operator CSX puts brakes on Hunter Harrison's demands**: https://www.ft.com/content/be2e4a68-f942-11e6-bd4e-68d53499ed71. "Hunter Harrison walked away from a lucrative job running Canadian Pacific Railway to offer his services to CSX last month. The question for CSX investors is if he is worth the price, including a compensation demand which it says adds up to $300m. The CSX board wants Mr Harrison to be its next chief executive, it said earlier this month. But it was not prepared to accede to what it called 'extraordinary requests' from him and the activist investor backing him, Mantle Ridge. Last week, CSX extended for a second time the deadline for nominating board directors, a sign that the two sides are still negotiating."

- The New Yorker has published an **article about Herbalife vs. Bill Ackman entitled 'Shorting a Rainbow'**: http://www.newyorker.com/magazine/2017/03/06/financiers-fight-over-the-american-dream. "Bill Ackman saw his hedge fund's crusade against Herbalife as a moral battle with a billion-dollar payday. [He] planned to make a fortune—and do good—by exposing how Herbalife preyed on the poor. What went wrong?"

Europe…

- The European Banking Authority (EBA) has published its annual **EBA Report on High Earners**: https://www.eba.europa.eu/-/eba-observes-a-significant-increase-of-high-earners-in-eu-banks. "The Report contains data covering all staff of institutions in the EU and EU branches of third country institutions receiving a total remuneration of one million euro or above. The data is available in aggregate format at the EU level, for each Member State, and by payment bracket within each Member State. […] The number of high earners receiving remuneration of more than EUR 1 million increased significantly from 3,865 in 2014 to 5,142 in 2015 mainly driven by changes in the exchange rate between EUR and GBP. The largest population of high earners in the EU of 4,133 is located in the United Kingdom, accounting for 80.4% of the total number of high earners (+41.25% compared to 2014) and most of them are remunerated in GBP. In most of the other Member States, the number of high earners also slightly increased."

...and beyond

› The Financial Times reports that **Executive pay rebellions loom in 'shareholder spring'**: https://www.ft.com/content/4d02fb44-ef93-11e6-930f-061b01e23655. "The world's largest asset managers, talking to the Financial Times, are clear that the events of 2016 will be the start, rather than the end, of the so-called 'shareholder spring' as companies face ever more pressure to curb pay plans in the US and UK, in particular. Investors predict a second stormy AGM season, with corporate governance experts highlighting 'serial misbehavers' such as Liberty Media and Oracle in the US, and WPP, Sports Direct and BP in the UK, as companies expected to come under renewed attacks this year." Additionally, **Investors plan tougher action to tackle excessive corporate pay**: "Several of the world's most powerful shareholders are planning to take even tougher action on excessive bonuses for company bosses in 2017 after investor protests over executive pay reached a five-year high last year. Large investors including Fidelity International, Aberdeen Asset Management, Calpers, Standard Life and Henderson Global Investors have told the Financial Times that they are planning to crank up pressure on boards to reduce excessive pay and introduce greater transparency in 2017." They also published a full page article about **How paying chief executives less can help corporate performance**: https://www.ft.com/content/10952312-ee30-11e6-930f-061b01e23655.

› The South China Morning Post reports that **Snap's offering represents a disastrous corporate governance milestone**: http://www.scmp.com/business/article/2068242/snaps-offering-represents-disastrous-corporate-governance-milestone. "For such a large tech offering, the Snap Inc IPO, on the New York Stock Exchange, is quickly looking pretty toxic. […] But, most of all, Snap's offering represents a disastrous corporate governance milestone. The IPO would be the first to offer shares with no voting power. And co-founders Evan Spiegel, chief executive officer and Bobby Murphy, chief technology officer will control the company for a period even if they resign or die. The prospectus states that a founder's voting power would only be diluted if he cut his stake substantially or 'nine months after death'. […] It's a downhill race for corporate governance as it will put regulatory reform pressure on Hong Kong and other major exchanges to eliminate all pretence of investor protection just to win tech listings. Institutional investors have to buy into this IPO if the stock is included in the major indices. Perhaps index providers should consider whether non-voting share classes should indeed be included in major indices such as the S&P 500 as a way to encourage fair governance practises."

› The Financial Times reports that **Golden parachutes leave unhappy investors behind**: https://www.ft.com/content/c63591b0-ea08-11e6-893c-082c54a7f539. "Who knows what temptations a golden parachute can open up? Reports suggest that senior executives at Mead Johnson, the US baby formula maker talking to Reckitt Benckiser about a $17bn takeover, could walk away with more than $30m if the deal goes through. […] Getting rid of those impeding progress at the top may be worth a pay-off. But at Volkswagen, the most recent golden parachute suggests the opposite. Christine Hohmann-Dennhardt was taken on as head of compliance in January 2016 to tackle deep-rooted problems at the carmaker, which had cheated on emissions tests on millions of vehicles. Last month she left after just 13 months in the job, taking with her €10m-€15m. This included three years' of full pay despite leaving 23 months early. VW blamed 'differences in vision'. The carmaker's management and union certainly did not like much of what she proposed, such as hiring Louis Freeh, a former director of the US FBI, as an independent monitor. […] Reducing the complexity of these pay packages would have a number of good results, not least in forcing companies to justify pay-offs. Until that happens, shareholders should kick up a fuss about golden parachutes, not just those that appear to reward failure, but those that mark someone just doing their job. A fuss can have an effect, after all. Two years ago, the departing chief of Alcatel-Lucent, Michel Combes, had his golden parachute cut in half after pressure from politicians and the public."

UK

› The Financial Reporting Council (FRC) has announced **a review of the UK Corporate Governance Code**: https://www.frc.org.uk/News-and-Events/FRC-Press/Press/2017/February/FRC-to-review-the-UK-Corporate-Governance-Code.aspx. "The Financial Reporting Council has announced plans for a fundamental review of the UK Corporate Governance Code. This will take account of work done by the FRC on corporate culture and succession planning, and the issues raised in the Government's Green Paper and the BEIS Select Committee inquiry. The review will build on the Code's globally recognised strengths developed over the past 25 years while considering the appropriate balance between its principles and provisions and the growing demands on the corporate governance framework. To guide this review, the FRC will seek input from a wide range of stakeholders including its recently established Stakeholder Advisory Panel of high profile representatives from a wide variety of sectors. In its response to the Government's Green Paper on Corporate Governance Reform the FRC will highlight the importance of helping boards take better account of stakeholder views, linking executive remuneration with performance, and extending the FRC's enforcement powers to ensure that disciplinary action can be taken against all directors where there have been financial reporting breaches."

› The Lex Column reports that **The spring voting season promises to be peppered with investor revolts**: https://www.ft.com/content/b5b62c88-f2c7-11e6-8758-6876151821a6. "The UK government has been backing away from plans to force companies to report ratios of CEO pay to average staff wages. Averagely-rewarded bosses in the low-waged retail and hospitality sectors would look overpaid. There is a case for setting pay using another ratio: CEO pay relative to enterprise value (quoted equity plus net debt). The latter rises when a business is prospering and falls when it is struggling. By setting pay as a fixed ratio of EV, boards would acknowledge managerial skill, if it exists, is scalable. Pay would be a function of company size. That should seem fair to many. Enterprise value is harder for CEOs to massage than adjusted earnings per share, a common benchmark for bonuses. The proportionate reward for growth would be lower than when increases in total shareholder returns were used, discouraging recklessness. Unearned cyclical rewards could be reduced by paying partly in shares vesting in 7-10 years. Big increases in net debt to raise enterprise value should hurt the share price."

› The Evening Standard published **Confessions from the City: The corporate governance chief**: http://www.standard.co.uk/business/confessions-from-the-city-the-corporate-governance-chief-a3469526.html. "March is a busy time for the City: the accounts department throngs into action and the sales managers get uncharacteristically animated trying to hit their year-end targets. For me, it's a different type of hectic. My diary is crammed with visits from the grizzled chairmen of remuneration committees knocking at the door to explain their latest plan to try to increase pay. The artful bargaining at the UN has nothing on a FTSE 100 group's pay consultation. It's a whirlwind of diplomacy, headed by the committee chairmen and their entourage, namely the head of reward and the pay consultant. They don't come to try our biccies and coffee: they're trying to drum up our support to clinch the votes at the meeting. It's boiler-plate stuff to start with – this is what we're proposing, these are the reasons why, this is the time period. Then the game of poker really starts. Before 2012's shareholder spring, discussions used to be a lot more frank. Right at the outset the chairman would know how the investor was going to vote. Now shareholders are much more qualified in their response."

› Sky News reports that **Barclays outlines plans to freeze Staley's £8m-a-year pay deal**: http://news.sky.com/story/barclays-outlines-plans-to-freeze-staleys-1638m-a-year-pay-deal-10765627. "Barclays is proposing to freeze its chief executive's maximum pay package for the next three years in a bid to avert a repetition of the remuneration rows which dogged one of Britain's biggest lenders. Sky News has learnt that Crawford Gillies, the board member who chairs Barclays' remuneration committee, outlined plans for a revised pay policy at a meeting with leading investors last week. […] Sources say that an aggregate figure of £8.2m was referred to by Mr Gillies as being the maximum potential pay deal for Mr Staley for the next three years. While still a lavish sum, Barclays hopes the move to freeze its chief executive's maximum payout until 2019 will convince shareholders that it is committed to avoiding further showdowns over remuneration."

› The Financial Times reports that **The $17bn Reckitt/Mead Johnson deal looks likely to ensure CEO will meet his payout targets**: https://www.ft.com/content/61ba823e-f1d5-11e6-8758-6876151821a6. "Reckitt had its triennial vote last year. Nonetheless, Mr Kapoor's pay, which ranks him among the top 15 best paid chiefs in the US and UK, reopens an old sore for many investors. His bonuses and long-term incentive plans are measured purely on revenue and earnings per share growth. The acquisition of Mead Johnson for $17bn will be earnings accretive within a year, and looks likely to ensure that Mr Kapoor will meet his payout targets next year and the year after. If Reckitt can guarantee to boost investor returns by as much and as fast, they will be happy. They have a Mr Micawberish rule of thumb – returns on capital should exceed the cost of capital by year three. But Reckitt, which is increasing borrowings by about $16bn to buy Mead Johnson, says returns will only rise above the cost of capital by year five. Net debt will be four times earnings before tax and other negatives in the first year."

- The Guardian reports that **Thomas Cook cuts boss's payout after shareholders revolt**: https://www.theguardian.com/business/2017/feb/09/thomas-cook-cuts-boss-payout-shareholders-revolt. "Thomas Cook has responded to shareholder pressure and reduced the maximum payout for its chief executive under a new long-term bonus plan, after a third of investors voted against it. In the biggest revolt, 32.7% of the travel company's shareholders opposed its plan to pay Peter Fankhauser a long-term bonus of up to 225% of his base salary of £703,000, worth about £1.6m a year. In response, Thomas Cook reduced the maximum potential payout to 200% under the strategic share incentive plan (SSIP), but said it would not use it this year. If used, it would replace the current long-term bonus scheme, the performance share plan (PSP), which can in exceptional circumstances pay out 200%."

- Legal & General Investment Management have published a paper entitled **The role of the Senior Independent Director**: http://www.lgim.com/library/capabilities/The-role-of-the-Senior-Independent-Director_JAN_2017.pdf. "The Senior Independent Director (SID) burst into the Corporate Governance world with the Higgs Review of the UK Combined Code in January 2003. In the wake of the high profile failures of Marconi and Equitable Life, Higgs suggested that the role of the SID was important in the relationship between major shareholders and the board, stating that 'The senior independent director should be available to shareholders, if they have reason for concern that contact through the normal channels of chairman or chief executive has failed to resolve.' […] What follows is a snapshot of the SID at 14, and an attempt to both capture best practice and give some guidance on what the role has become at its best. It is based on numerous conversations with SIDs themselves, as well as on our experiences of dealing with them in sometimes testing circumstances. In the past 14 years we have witnessed and benefited from the value of a number of effective SIDs, and we are sincerely grateful to them."

- The Times reports that **Adviser is accused of 'mafia style shakedown'**: http://www.thetimes.co.uk/article/adviser-is-accused-of-mafia-style-shakedown-7vz8qv770 "An influential consultancy that advises institutional shareholders on whether to veto company bonus schemes has triggered concern by touting a service to boards to help them to sidestep investor revolts in the coming AGM season. Institutional Shareholder Services, the world's biggest proxy voting agency, has told UK-listed company boards that it can identify potential problem pay schemes and suggest tweaks and favourable language to ensure that they win shareholder approval. Remuneration experts say that a letter sent last month by ISS Corporate Solutions, an ISS subsidiary, raised concerns about a possible conflict of interest, while some boards feel that they are being improperly pressurised to take the service for fear of receiving a negative recommendation from ISS. […] ISS said yesterday that it recognised the potential for conflicts of interest but had robust processes and firewalls in place. The identities of ISS CS clients were never shared with the main ISS research team. Whether ISS CS was hired had no bearing on the parent company's recommendations."

France

- The IFA – Institut Français des Administrateurs (the French Institute of Directors) has published a report entitled **Baromètre IFA – Ethics & Boards**: http://www.ifa-asso.com/informer/actualites/actualites-de-l-ifa/communiques-de-presse/lancement-du-barometre-ifa-ethics-boards-de-la-composition-des-conseils-du-sbf-120.html. "The Board of Directors or Supervisory Board plays an essential role as guarantor of a company's social interest. The IFA, in support of the corporate governance codes, focuses on clarifying and disseminating good practices necessary for effective governance. It is in this context that IFA has partnered with Ethics & Boards, a leading observatory of listed companies, to launch this new barometer. It will serve as a reference to follow over time the indicators of the composition of Boards. The data and indicators of this barometer not only allow to monitor the progress of certain aspects of governance but also to remain vigilant that compliance is necessary but in no case sufficient for a governance in the service of competitiveness." See here for the full document: http://www.ifa-asso.com/fileadmin/user_upload/IFA_2016_22.02.2017_Final.pdf.

- The Wall Street Journal report that **Renault-Nissan's Carlos Ghosn Sees Paris as Hurdle to Auto Merger**: https://www.wsj.com/articles/in-handing-off-nissan-ghosn-aims-to-get-arms-around-the-broader-alliance-1487854621. "Mr. Ghosn's decision to step down as Nissan's chief executive and hand control of the Japanese auto maker over to Hiroto Saikawa came shortly after Mr. Saikawa was named co-CEO last year. The move comes as the alliance Mr. Ghosn architected in 1999 with France's Renault SA faces an inflection point with French elections taking place in coming months. Mr. Ghosn continues to oversee the Renault-Nissan partnership, which expanded last year with the $2.3 billion purchase of control of Mitsubishi Motors Corp. and is anchored in a cross-shareholding between the Japanese and French auto makers that keeps various operations at a distance. […] To truly operate like Toyota Motor Corp., Volkswagen AG or General Motors Co., however, Mr. Ghosn needs to combine his Renault and Nissan briefcases into one consolidated bag. […] Mr. Ghosn, speaking in an interview Thursday, said a merger is off the table as long as French officials see Renault as a national champion, with interests that are separate from the Japanese partners. 'Nissan has been very clear during discussions with the French state that they are not going further in terms of a merger, or anything else, with the French state as a shareholder of Renault."

- MarketWatch reports that **Former French President Sarkozy joins Accor board**: http://www.marketwatch.com/story/former-french-president-sarkozy-joins-accor-board-2017-02-22. "Former French President Nicolas Sarkozy has joined the board of hotels group Accor SA. Mr. Sarkozy will work toward extending Accor's international reach and promoting French tourism, Accor said in a statement. He will take over from the representative of Colony Capital after the fund decided to sell its shareholding in Accor earlier this month."

Germany

- The German Corporate Governance Commission has **published a new edition of the German Corporate Governance Code and announced that Rolf Nonnenmacher will chair the Commission**: http://www.dcgk.de/en/kommission-33/die-kommission-im-dialog/details/proposed-amendments-to-code-for-2017-published-183.html. The Code's Preamble to now states that "institutional investors are particularly important to companies and are expected to exercise their rights of ownership actively and responsibly, in accordance with transparent principles which also respect the concept of sustainability." Further amendments to the Code include provisions that: "companies shall publish the basic features of their Compliance Management System", "employees shall be given the opportunity of anonymously reporting suspected breaches of the law within the company", and "the Supervisory Board shall in future prepare a profile of skills and expertise for the entire Supervisory Board." Finally, the Code now recommends that "the Chairman of the Supervisory Board be prepared […] to discuss topics relevant to the Supervisory Board with investors." See here for the full document with mark ups (in German): http://www.dcgk.de/de/kommission/die-kommission-im-dialog/deteilansicht/kodexaenderungen-2017-beschlossen-vorsitzwechsel-zum-1-maerz.html?file=files/dcgk/usercontent/de/download/kodex/170214%20Kodex%20D%20Mark%20up%20vorlaeufige%20Version.pdf.

- Deutsche Welle reports that **German national railway chief resigns amid pay dispute**: http://www.dw.com/en/german-national-railway-chief-resigns-amid-pay-dispute/a-37331788. "German news agency DPA reported Monday that the 65-year-old Deutsche Bahn chief executive stepped down during a meeting of the German rail operator's supervisory board, which had originally been scheduled to extend his contract. Quoting sources who took part in the meeting, Grube's decision came after the board had refused to grant him a three-year extension of his contract until 2020, DPA said. The supervisors had offered him only a two-year extension instead, it said. Negotiations for a second term with Grube at the helm of Germany's state-owned railway enterprise have been dragging on for months, with media reports saying the CEO offered to accept a salary freeze in exchange for a longer contract. Grube was even said to have relinquished his right to claim compensation should his contract be terminated before it expires."

- Handelsblatt reports that **VW Wants to Cap Executive Compensation at €10 Million**: https://global.handelsblatt.com/companies-markets/vw-wants-to-cap-executive-compensation-at-e10-million-698673. "The supervisory board at Volkswagen is drafting plans to cap executive compensation at €10 million, or $10.7 million, according to Handelsblatt sources close to the non-executive board. […] Under the proposed compensation system, executives would receive a higher fixed salary and lower variable compensation. Bonuses wouldn't play as great a role as in the past, company sources told Handelsblatt. Variable compensation has been about four times higher than fixed compensation. Executives would also invest a portion of their money in company stock, which they would not be able to redeem for several years. Bonuses would be tied to dividends and VW's stock price, sources said, so that the consequences of a bad year would also be reflected in executive pay."

Netherlands

› The Guardian reports about **How Unilever foiled Kraft Heinz's £115bn takeover bid**: https://www.theguardian.com/business/2017/feb/20/how-unilever-foiled-kraft-heinzs-115m-takeover-bid-warren-buffett. "Unilever forced Kraft Heinz to abandon its £115bn bid for the company after the Anglo-Dutch maker of Marmite and Flora said it would use every tool at its disposal to fend off a deal. The US consumer goods firm behind Philadelphia and WeightWatchers withdrew its offer 'amicably' on Sunday evening, just 48 hours after admitting interest in its much larger rival." Previously the Daily Telegraph had reported about how **Dutch poison pill could save Unilever from 'predatory' bid from Kraft Heinz**: http://www.telegraph.co.uk/business/2017/02/18/dutch-poison-pill-could-save-unilever-predatory-bid-kraft-heinz/. "Kraft Heinz's attempts to pull off an audacious takeover of Unilever could be derailed by Dutch laws that allow the Dove soap-maker to block a bid that threatens jobs, jeopardises the country's national interests, or could have a detrimental impact on the environment."

United States

› The Financial Times reports about **The battle of the US corporate governance codes**: https://www.ft.com/content/e52f6f22-e93c-11e6-893c-082c54a7f539. "US corporate governance codes are like London buses. You wait ages for one, and then two come along at once. It is barely six months since a coalition of asset managers and blue-chip companies including BlackRock, State Street Global Advisors, T Rowe Price, ValueAct and Vanguard launched Commonsense Principles of Corporate Governance. Yet, last week, along comes Corporate Governance Principles for US Listed Companies, signed by a coalition of asset managers and asset owners including BlackRock, SSgA, T Rowe Price, ValueAct and Vanguard. What is going on? There is broad consensus among investors that US boards are more entrenched and less attuned to shareholders than those in Europe, where countries such as the UK have had powerful codes of conduct since the 1990s. But getting companies to accept higher standards is proving tricky. The trouble is, investors disagree among themselves on many of the finer points of governance that have become settled best practice elsewhere. Given a large and heterogeneous shareholder base with diverse investment objectives and time horizons, directors feel free to ignore many of the entreaties they receive. This annoys the hell out of shareholders but, frankly, boards are pretty grumpy too about being confronted with so many competing governance demands." See here for the **Commonsense Principles of Corporate Governance**: http://www.governanceprinciples.org/ and here for the **Investor Stewardship Group Corporate Governance Principles For US Listed Companies**: https://www.isgframework.org/corporate-governance-principles/.

› Reuters reports that **Acting SEC Chair takes aim at Dodd-Frank CEO pay ratio rule**: http://www.reuters.com/article/us-usa-sec-ceopay-idUSKBN15L2BY. "The head of the U.S. Securities and Exchange Commission took steps on Monday to delay a controversial rule that will require companies to disclose a ratio comparing their chief executive's pay with the median workforce. Acting SEC Chairman Michael Piwowar said he wants companies to submit comments that outline 'any unexpected challenges' that they are facing as they prepare to comply with the rule later this year. He also asked the SEC's staff to 'reconsider the implementation of the rule' to determine 'whether additional guidance or relief is appropriate.' The SEC's CEO pay ratio rule is a requirement in the 2010 Dodd-Frank Wall Street reform law. The rule is championed by unions and worker advocacy groups who say it provides a helpful metric to keep track of income inequality and excessive CEO pay. But business groups such as the U.S. Chamber of Commerce have staunchly opposed the measure, saying it is 'misleading, politically-inspired and costly.'"

- The Financial Times reports that **Alphabet opts to spell out its stock options**: https://www.ft.com/content/858d9b62-eeef-11e6-ba01-119a44939bb6. "Google is about to go cold turkey on Silicon Valley's favourite financial drug. Issuing mountains of stock to employees – and then turning a blind eye to the impact on profits – has been a not-so-secret dirty habit of the US tech industry for years. But the times are changing. In a little-noticed announcement, the internet company's parent, Alphabet, let slip on its last earnings call that it is about to alter its treatment of stock-based compensation – a $6.7bn cost last year. From this quarter, it will stop presenting a view of its earnings that ignores stock costs. Had that been applied in 2016, the earnings figure that Wall Street used to judge the company would have been nearly 20 per cent lower. Its trailing price/earnings ratio would be 34, not the 27 seen through more rosy spectacles. Alphabet's rethink is a watershed moment in the financial maturity of Google's parent and the evolution of the Valley. The giant companies that dominate today's tech landscape are finally feeling the financial self-confidence to deal with mainstream investors on their own terms. What this means for the next generation of up-and-coming tech companies is another matter."

Mexico

- The Financial Times reports that **Asset managers push for governance change in Mexico**: https://www.ft.com/content/91820a10-e6bc-11e6-893c-082c54a7f539. "Aberdeen Asset Management and Franklin Templeton Investments are among asset managers pushing Mexican authorities to overhaul two practices they say are harming investor confidence in a country that has been in global crosshairs since US president Donald Trump took office earlier this month. Cartica, a US-based asset manager focused on emerging markets, is leading a charge from the firms to push listed Mexican companies to give at least one month's notice of shareholder meetings and remove bylaws it says crimps the right of minority investors. […] Californian state pension funds Calpers and Calstrs are among the asset managers pushing for an overhaul in corporate governance rules set by the Mexican Banking and Securities Commission and the Mexican Stock Exchange. The current two-week notice period boards need to give shareholders of annual meetings meant that 75 listed companies, including many of Mexico's largest, last year failed to give investors enough time to make informed decisions, Cartica claimed."

Brazil

- Reuters reports that **Vale to scrap controlling bloc, merge shares in major governance move**: http://uk.reuters.com/article/uk-vale-sa-equity-agreement-idUKKBN15Z1BV. "Vale SA plans to become a company with no defined controlling shareholder as soon as possible, in a landmark step aimed at enhancing transparency and equal rights for all shareholders in the world's largest iron ore producer. Controlling shareholders grouped under holding company Valepar SA agreed to stay together for up to 3-1/2 more years. Under those terms, they will present a proposal soon by which Vale will incorporate Valepar and proceed to merge the company's several classes of stock into a single, common one by November. The existing 20-year accord governing Valepar that expires in May will be extended through November to guarantee the transition. […] The change represents a milestone in a country long hobbled by corporate governance abuses and reorganisations that hampered minority investors in most cases."

Japan

- The Government Pension Investment Fund of Japan (GPIF) has published a **Summary Report of GPIF's Stewardship Activities in 2016**: http://www.gpif.go.jp/en/topics/pdf/20170203_report_of_stewardship_activities_2016.pdf. "It is essential for GPIF, as a 'universal owner' (an investor with a very large fund size and a widely diversified portfolio) and a 'super-long-term investor' (designed as a part of 100 years sustainable pension scheme), to minimize negative externalities of corporate activities (environmental and social issues, etc.) and to promote steady and sustainable growth of the overall capital market. GPIF invests in equities and exercises voting rights via external asset managers. GPIF will thus fulfill stewardship responsibilities by promoting constructive dialogues (engagement) between its external asset managers and investee companies, and building a win-win relationship in the investment chain. In this chain, a medium-to long-term improvement in corporate value will lead to growth of the overall Japanese economy, which will eventually enhance investment returns."

South Africa

- The Financial Times reports that **South Africa miners face ANC fight over black ownership plans**: https://www.ft.com/content/64dee8e0-f8df-11e6-bd4e-68d53499ed71. "Corporate speeches usually avoid talk of a 'difficult and dark' past. But this month Mark Cutifani, head of Anglo American, defended the South African mining industry's record on opening up ownership to the country's black majority. With the government planning to shore up black participation in mining, the next few months are the most critical in the sector's 150-year history, Mr Cutifani said. Many 'still don't understand' that the modern owners of South African mines are no longer the 'Randlords', he said, referring to the white industrialists who exploited black labour to establish the country as one of the world's leading miners. His speech was widely seen as a warning to the ruling African National Congress. Increasingly reliant on populist rhetoric as its support wanes and the economy stagnates, the government wants to consolidate black ownership in an industry that was once the country's economic bedrock but is now declining. The ANC introduced black economic empowerment (BEE) to address the apartheid-led exclusion of blacks from South Africa's economy and it encompassed far more than just mining. Companies had to bring black ownership up to a stipulated level. But its implementation has been widely criticised for enriching a politically connected elite, such as Cyril Ramaphosa, the deputy president, and Tokyo Sexwale, another ANC veteran. As a result, empowerment had been seen as a narrow 'self-enrichment scheme for a few people' connected to policymakers, said William Gumede, chair of the Democracy Works Foundation. In March the government will update the 2002 mining charter, the social compact designed to accelerate the industry's racial transformation. It now wants companies to maintain black ownership at 26 per cent – even if the original BEE beneficiaries sell out."

If you have any comments or questions please do not hesitate to contact me.

Kind regards,

Daniele Vitale
Georgeson
Corporate Governance Manager > Corporate Advisory
daniele.vitale@georgeson.com
T +44 (0)20 7019 7034 **M** +44 (0)7747 697 136 **F** +44 (0)870 702 0158
Moor House, 120 London Wall, London EC2Y 5ET, United Kingdom
www.georgeson.com