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REGISTRY ROUND-UP

December 2019

Welcome to your December round-up, where we bring you key dates and the latest industry highlights from the world of registry, along with a market update provided by Georgeson.

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AIM Corporate Governance

September 2018 saw the introduction of changes to the AIM Rules which require companies on that market to publicly state which code of corporate governance they were following and provide a statement on their adherence.

In compliance with the AIM Rule 26, 90% of the 900 companies on AIM stated that they had adopted the Quoted Companies Alliance (QCA) Corporate Governance Code. As a consequence of this large-scale adoption of the QCA's Code, they have conducted a survey to understand what organisations felt about the process and how it might have helped or even hindered them.

The resulting report (found here) discovered that 39% of respondents felt that adopting the QCA code helped their business by formalising new processes and prompting the board to consider other views. The report also identifies that 40% of respondents found that since adopting the code they have increased their transparency to the market around board evaluations and the strategy of the organisation.

Overall, the QCA see that the results of their survey support their published governance framework that was designed to give small and medium-sized companies sensible guidelines based on the size their organisation and resources available to them.

Owners of the World's Listed Companies

The Organisation for Economic Co-operation and Development (OECD) has published a report (found here) which provides a global overview of ownership within publicly listed companies based on different categories of investors.

The report looks at almost 10,000 companies in 54 markets and is aimed at informing policy discussions on how capital markets serve as an important channel for financial resources. The report also considers the increasing role of institutional investors in global equity markets and the importance of public sector ownership.

The OECD has identified three major concerns:

1. **Shareholder scrutiny**
   The report found major concerns with the impact of ownership trends on shareholder scrutiny, with small growth company listings constituting increasing institutional ownership.

   With institutional investors practising mainly passive investing based on various indices, little attention is being paid to risk and opportunities, so insufficient resources may be spent on a core capital market function, specifically that of corporate performance scrutiny.

2. **Political influence**
   Whether directly or indirectly, politics can influence corporate decisions as well as having an economic effect on ultimate beneficiaries such as taxpayers and pensioners.

   Currently, 14% of the global stock market is owned by the public sector in the form of direct ownership, sovereign wealth funds or public pension funds. In approximately 10% of the largest global companies, the public sector holds more than 50% of the shares.

3. **Concentration of ownership**
   In half of the largest global companies, three of the largest shareholders hold more than 50% of the capital. While this may have a positive impact on so-called agency problems faced by shareholders in companies with

dispersed ownership, it can also increase the scope of an abuse of rights of other shareholders and lead to a degradation in market confidence.

These factors, together with the diverse corporate governance regimes around the world indicate that a discussion about national governance policies should consider the ultimate long-term effects on productivity and business dynamics, as well as the impact on alternative funding.

Corporate Governance Manifesto

The Institute of Directors (IoD) has taken the opportunity presented by the UK general election, to release their manifesto for corporate governance (found here).

The manifesto proposes 10 policy initiatives aimed at reinforcing the pre-eminent position of the UK within the global corporate governance space. Several of the proposals attempt to rebuild societies trust in business and simultaneously avoid the potential for possibly heavy-handed regulation or even nationalisation.

The Institute has split its policy initiatives into three broad categories which are:

1. **Increase the accountability of the UK corporate governance system to stakeholders and wider society**
   This category houses four of the initiatives including the development of an industry-led code of conduct for directors, which would apply to those board members of significant corporate entities. It is felt that an absence of such a framework outside of just compliance with the law will improve public trust by providing more accountability for failures of oversight. One of the other initiatives within this category is the proposal to establish an independent Corporate Governance Commission, which would remove the responsibility of the UK Corporate Governance Code and Stewardship Code from the Financial Reporting Council's (FRC) successor. In part, this recommendation is because the Institute feels that such codes are a 'soft law' approach to regulation and contrast from the more robust approach required for the work of auditors.

2. **Proposals to increase the competence and professionalism of UK board members**
   Here we see two initiatives which cover the introduction of mandated minimum requirements for the training of directors who fulfil roles on the boards of significant entities. These are designed to ensure that directors, especially non-executives, have the necessary skills to undertake their duties. It is proposed that this is initially achieved by amending the Corporate Governance Code to increase expectations that directors undertake formal training.

   The second initiative is to encourage the adoption of a code of practice for board evaluations, to ensure consistency on how evaluations are conducted to demonstrate the true value of them.

3. **Proposals which encourage a longer-term, sustainable approach to business behaviour**
   The final four initiatives include the re-introduction of an 'Objects clause' or at least the introduction of a business purpose statement to allow a company to clearly communicate their expected social impact beyond just maximising profits.

   The IoD is also recommending that the Government introduce an appropriate reporting framework to ensure that UK listed companies have a consistent approach to climate-related reporting disclosures as expressed by the Financial Conduct Authority.

PSC Register – Q&As

November saw the publication of some questions and answers by the Law Society and the City of London Law Society (found here) which provide their views on technical points of the requirements for the maintenance of a register of people with significant control.

The Societies believe that these Q&As answer points which either were not already clear from the legislation or the associated guidance which the Department for Business, Energy and Industrial Strategy (BEIS) has previously published.

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While BEIS said that they don't disagree with any of the statements made within the Q&A, it is for the courts to ultimately interpret the law.

The Societies have split the document into the following sections:

1. Holding shares/votes/board appointment rights
2. Indirect interests/majority stakes
3. Trusts and funds
4. Restrictions and warning notices
5. Position on incorporation

Hampton-Alexander Update

As the recommended deadline concerning board diversity targets detailed in the 2016 Hampton-Alexander report is now just 12 months away, the review panel has released their latest update in the form of the 2019 FTSE Women Leaders report (found here).

The key findings within the report are:

- **Board representation**
  The report recognises that half of all FTSE 100 boards have now met or are exceeding the 33% target originally set in 2016, with a further 20 companies on track, but others have much work still to do.

  32.4% of positions in the FTSE 100 are currently held by women, and within the FTSE 250 the figure is currently at 29.6%.

- **Executive committees and direct reports**
  While the report states that the number of women in executive committee roles and in roles reporting directly to the executive committee has increased, it also finds that the pace of change has been too slow. If the target laid out in 2016 is to be met by the end of 2020, then half of all available appointments will have to be given to women during the next 12 months.

- **CEOs and chairs**
  The report finds that there has been little change in this area and feels that a sharper focus is needed to understand the reasons as to why women are not being appointed in these top jobs.

Corporate Reporting Annual Review

An annual review of corporate reporting has been conducted by the Financial Reporting Council (FRC) and is calling for improvement in the reporting of forward-looking information and the impact of emerging risks on future strategy.

This annual review of corporate reporting doesn't include a review of corporate governance disclosures and compliance with the UK Corporate Governance Code, as the FRC will be publishing a separate report on this area later in the year.

The regulator has also expressed concerns that errors are still being seen with cash flow statements and associated disclosures. Many cases seen by them inflated the cash generated from operating activities. They have also identified continued issues with companies' disclosures in relation to climate-related risks and entities not providing a fair, balanced and comprehensive analysis of the organisation's development and performance during the year within their strategic report.

The full report can be found here.

Principles for Purposeful Business

This newsletter previously discussed the research being carried out by the British Academy entitled The Future of the Corporation. An associated report from the project has been published, setting out 'Principles for Purposeful Business' (found here). Contained within are eight principles for policymakers and business leaders.

1. **Corporate law**
   Purpose should be at the heart of the corporation, with directors being required to state their purposes and demonstrate their commitment.
2. **Regulation**
   High duties of engagement, loyalty and care on the part of directors should be embedded within regulations in relation to public interests where companies perform important public functions.
3. **Ownership**
   Obligations of shareholders should be recognised, and they should be engaged to support corporate purposes.
4. **Corporate governance**
   This should align managerial interests with companies' purposes and establish accountability to a range of stakeholders. It should also determine values necessary to deliver stated purposes.
5. **Measurement**
   Recognition of impacts and investments by companies in their workers, societies and natural assets.
6. **Performance**
   Should be measured against the fulfilment of corporate purposes and profits measured net of the costs of achieving them.
7. **Corporate financing**
   Form and duration that allows companies to fund more engaged and long-term investment in their stated purposes.
8. **Corporate investment**
   Made in partnership with private, public and not-for-profit organisations that contribute towards the fulfilment of corporate purposes.

The principles are interconnected, and the report discusses how they will require both stakeholder engagement and public pressure to ensure Governments pursue legal reform combined with support from corporate leadership.

The Academy is planning a series of 'purpose summits' to examine the role that a purposeful business can play in solving the problems faced by people and the planet.

Global News

Diversity and Inclusion Differentiators

Russell & Reynolds Associates has published their insights from a recent survey of nearly 850 executives worldwide, which looks at the level of maturity of their organisation's diversity and inclusion (D&I) efforts.

The report entitled 'Diversity & Inclusion: What Separates the Best from the Rest' has several key findings. One is that organisations which self-classify as treating D&I as a business and organisation issue that engages all employees are more likely than less advanced organisations to:

- set diversity goals for employees and senior leadership, and hold leaders accountable for reaching the stated goals
- quantify the level of inclusion and hold leaders accountable for fostering an inclusive culture
- hire and develop leaders who exhibit inclusive behaviours, such as allow safe environments for expressing opinions, creating collaborative opportunities and leveraging different perspectives
- invest in governance structures to support their D&I mandate
- invest in D&I as a means to better business performance rather than as an end in itself or a compliance only exercise

The report can be accessed here.

The Push and Pull of ESG Integration

A recent survey conducted by State Street Global Advisors gathered the views of more than 300 institutional investors comprised of private and public pension funds, endowments, foundations and official institutions. The survey showed an uptick in investors integrating ESG factors in their investment approach for various reasons, subject to perceived impediments that stunt further and faster integration.

The results (found here), identify several key findings including that the key drivers for ESG adoption vary both by region and investor type. Primary drivers in North America are that ESG is part of their fiduciary duty, or that they are keeping up with market standard-setters such as the United Nations and that they also have regulatory pressures. In Europe, investors are principally driven by regulation and reputational risk mitigation.

One area where there was broad consensus was that respondents reported that one of the top three impediments they face is the lack of realisable or consistent ESG research and data.

Two memos have been released by Georgeson which look at the ISS and Glass Lewis UK and European updates for 2020. The memos provide a thorough review of the main changes to each organisation's benchmark policies and guidelines for the forthcoming AGM season.

If you would like a copy of the memos, please email Daniele Vitale.

UK

Pension Perks

Several news outlets are reporting on organisations making changes to their pension perks for executives.

Reuters report that Lloyds set to join rivals in cutting CEO pension perks.

"Lloyds Banking Group is set to join rivals in cutting its chief executive's pension allowance, after months of political and investor pressure on banks that award top bosses better perks than the rest of their employees."

The Financial Times reports that Barclays to cut chief executive Jes Stanley's pension allowance.

Barclays is to cut the pension allowance for its chief executive, sealing a key win for investors as big banks bow to investor pressure to bring the benefit into line with that paid to the wider workforce [...] 'It is an absolute victory for shareholders,' said one large asset manager holding shares in Barclays."

Executive Pay

The Financial Times reports that UK Chairman's average pay rises 30% since crisis.

"Non-executives' remuneration lags that of executives by 'huge amount'."

Board Diversity

Fidelio Partners has published a memo entitled Board Diversity in Germany and the UK – What Works.

"Both Germany and the UK recognise the benefits of greater Board diversity. Both countries have made progress, but it is arguable whether the most influential roles at the top of leading quoted companies have fully opened up to female talent. The dearth of female Chairs in Germany and the UK speaks for itself."

International

US Style Proxy Adviser Restraints

The Australian Financial Review reports that Directors call for US-style proxy adviser restraints.

"Australia's directors lobby group is pushing for consideration of US-style changes to how proxy recommendations are prepared, including allowing a company to review advice before being sent to shareholders. The proposal was criticised by one local proxy advisory service, which said there was no logical reason for such a change."

Double Down on Activism

Chief Investment Officer reports that Daniel Loeb doubles down on activism.

"Activist investor Daniel Loeb is upping the ante on investor activism. He is going to devote even more of his firm's resources to activism, which involves buying a stock position in a company and pushing it to boost returns via strategic changes. Third Point, which manages about $15 billion, currently has 40% of its assets devoted to activism. Increasing that level will allow it to enhance its returns, Loeb said in a letter to investors, which industry newsletter Hedge Fund Alert reported."

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