Computershare

# REGISTRY ROUND-UP

September 2018

Welcome to your September 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**

- Energy Reporting
- Gender Pay Gap Reporting
- Listing and Transparency Rules
- AIM - Corporate Governance Requirements
- 21st Century AGMs
- FT-ICSA Boardroom Bellwether
- Effective Board Reporting
- Shareholder Dialogue
- Global News

**Georgeson market update**

- Shareholder Activism - UK
- Shareholder Activism - International

## Latest on the blog

### Dormant Assets Commission

Take a look at our blog about the DAC's report and their key recommendations for issuers.

Following the Government's initial response, we're collating feedback to help us respond to the DAC. We'd appreciate you taking the time to complete our short survey here.

READ MORE


## Energy Reporting

The House of Commons Business, Energy and Industrial Strategy Committee (BEIS) has laid before Parliament draft regulations giving new requirements to quoted and large companies in regards to the disclosure of their energy consumption. If approved by Parliament, the draft regulation, Companies (Directors' Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018, will come into force on the 1 April 2019. There will not be a requirement to make new disclosures if the consumption of energy during the financial year is 40,000kWh or less.

- **Quoted Companies**
  UK-incorporated quoted companies are already required to include information in their annual report in regards to their greenhouse gas emissions. However, the new regulations will require further disclosures in their directors' report, including:
    - The aggregate figure of the annual quantity of energy from activities for which the company is responsible, as well as the annual quantity of energy consumed by the company for its own use
    - The proportion of which relates to usage in the UK
    - A description of any measures taken by the company to improve energy efficiency.

- **Large unquoted companies and limited liability partnerships**
  Under the new regulations, unquoted companies and limited liability partnerships, which are considered 'large' for accounting purposes under the Companies Act 2006, will have new requirements to report on emissions and energy consumption in their directors' report. There will be an exemption where they are part of a group which is headed by a quoted company, as that company will be required to report on those matters as a group. The new requirements are similar (although not identical to) those required of quoted companies.

The Companies (Directors' Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 can be found here, and the Government Response to the October 2017 consultation paper 'Streamlined Energy and Carbon Reporting' accompanying the draft regulations can be found here.

## Gender Pay Gap Reporting

Following on from the House of Commons Business, Energy and Industrial Strategy Committee (BEIS) inquiry into executive pay and the gender pay gap, a report has now been published setting out the conclusions from that inquiry. We included the inquiry in our May round-up, which can be found here.

The report notes that the national median gender pay gap is 18.4%, and calls for quicker and more effective action to close this gap. A number of required changes to legislation have been recommended to the Government, which BEIS has suggested should apply to reports published from April 2019, including (but not limited to):

- An explanation of the gender pay gap, including an action plan to resolve the gap
- The publication of both part- time and full-time pay gap data
- A power enabling the Equalities and Human Rights Commission to impose fines for non-compliance.

BEIS has also recommended changes which it suggests should come into force from 2020, including:

- BEIS noted that there was evidence that the pay gap was higher in smaller businesses, and therefore recommended that the reporting obligations should be applicable to companies with 50 or more employees
- Extending the reporting requirements to also include disability and ethnicity pay gap data.

The inquiry will be continued into autumn of this year, and the current report can be found here.

### Listing and Transparency Rules

In December 2017, the Financial Conduct Authority (FCA) published their quarterly Consultation Paper in which they proposed two minor technical changes to the Listing and Transparency Rules. You can find the summary of this in our January round-up, here. In the FCA's most recently published Handbook Notice, it has been announced that the changes consulted on have been adopted in the form they were proposed:

- **Premium Listing Principle 6**
  This rule states that a premium listed company must communicate information to holders in such a way as to avoid the 'creation of a false market'. The amendment to the rule has referred expressly to 'continuation' as well as the creation of a false market, to ensure clarity of the principle's meaning

- **Diversity reporting**
  This amendment clarifies that disclosures relating to the company's board diversity policy must be either included in the company's corporate governance statement, published with the annual report, or published on the company's website.

These changes took effect from the 27 July 2018 and the Handbook Notice can be found here.

### AIM - Corporate Governance Requirements

Following on from the announcement of the new corporate governance requirements, the London Stock Exchange (LSE) has published a new edition of Inside AIM. From 28 September 2018, AIM companies will be required to disclose details of the recognised corporate governance code they have decided to apply. Alongside this, companies will have to explain how they comply with their chosen corporate governance code and, where they depart from the code, they will be required to provide an explanation of the reasons for doing so. The new edition of Inside AIM contains guidance on some of the most commonly asked questions Nominated Advisors receive regarding this requirement.

- **Timing of disclosure**
  After 28 September 2018, an AIM company will have to review its corporate governance disclosures annually. The LSE has suggested that this review should take place at the same time as the preparation of the annual report and that the date of the last review should be on the website

- **Location of disclosure**
  AIM Rule 26 requires the company's corporate governance statement to be published on its website. The information should be clear and easily accessible

- **Recognised code**
  The Exchange has not prescribed a list of recognised codes as it stated that it is preferable for AIM companies to choose a code which suits their specific needs. For AIM companies that have a dual listing, the LSE has confirmed that it is acceptable to report using an appropriate standard in their jurisdiction.

The new edition of Inside AIM can be found here.

It is felt that most small-medium sized companies will be adopting the Quoted Companies Alliance governance code, due to it being less prescriptive than the UK Corporate Governance Code. A recent ICSA newsletter (found here) discussed how the UK Code, which is predominantly aimed at FTSE 350 companies, can be adopted by smaller companies, and that the code contains a number of concessions in the areas of committee composition and board evaluations. However, some previous concessions have been removed by recent changes.

### 21st Century AGMs

With continued declining attendance and voting, the thought leadership committee of the Institute of Chartered Secretaries and Administrators (ICSA) has released a paper and video highlighting the various perceived issues facing issuers in different markets.

As would be expected, relevant law, regulation and practice can vary between markets. There are common themes identified, both in relation to the role of the AGM as the mechanism for shareholder engagement, and the potential solutions to the identified issues.

Through this report, ICSA is looking at the adoption of technological solutions to these common problems. In particular, the adoption of hybrid meetings is seen as increasing opportunity for all shareholders to engage, promoting long-term ownership retention and streamlining administrative processes.

The report and video can be found here.

### FT-ICSA Boardroom Bellwether

This month saw the Financial Times and ICSA release their bi-annual Boardroom Bellwether survey. The survey seeks the opinions of FTSE 350 companies on a range of areas including business concerns, topical issues and governance concerns.

Highlights from the survey include:

- **Board composition**
  Boards attempts to become more representative of their customers and markets continues to be slow despite external pressure to improve. Progress on gender diversity appears to be slowing. Many issuers, which were neutral six months ago about how diverse their boards were, are now reporting that their boards are not sufficiently diverse (neutral vote falling by 15%)

- **Risk**
  Cyber-risk remains the primary concern on boards, with companies increasing their spending on mitigating it. Boards are seeing an increase in risk related to technological disruption, with 48% having discussed the risks and opportunities of artificial intelligence

- **Regulation and compliance**
  Only 39% of respondents feel that the introduction of GDPR will improve the protection offered to their customers. Most respondents are leaning towards the introduction of a designated non-executive director to focus on getting the voice of the workforce into the boardroom

- **Executive pay**
  59% of respondents have reported that following shareholder feedback they have made changes to remuneration policies, and 90% of respondents confirmed that their remuneration committees have considered wider pay and employment conditions when carrying out pay reviews.

The full report can be found here.

### Effective Board Reporting

ICSA has published new guidance on effective board reporting. The purpose of the guidance is to assist organisations to assess the usefulness of their board packs, the efficiency of their processes and to identify improvements.

The guidance has been split into four sections, focusing on the core processes in board pack development:

1. Identifying the required information
2. Commissioning board papers
3. Drafting board papers
4. Collation and distribution.

Accompanying the guidance are two tools which are intended to assist organisations to benchmark their packs. The first tool is a cost calculator which helps to estimate the total annual cost and time of preparation/reading papers. The second tool allows issuers to perform a self-assessment on whether the packs meet the needs of its stakeholders.

Links to the tools and guidance can be found here.

### Shareholder Dialogue

The introduction of the new 2018 Corporate Governance Code saw changes to Section E of the 2016 Code which dealt with shareholder engagement. The 2016 section which covered the use of general meetings has largely been replaced, with only passing references now included in Principle D and Provision 3 of the 2018 code.

On the other hand, section E.1 of the 2016 Code which focuses specifically on dialogue with shareholders has received greater prominence, having been elevated to Section 1 of the 2018 Code where it has been incorporated under the banner of board leadership and company purpose.

ICSA has released an article which looks at the key differences between these important sections of the 2016 Code and how they have been incorporated within the new code. The article can be found here.

### Global News

#### Ethics and Compliance Training

NAVEX Global, the ethics and compliance software company, has released their 2018 Ethics & Compliance Training Benchmark Report.

The report looks at the training carried out by and key issues facing global companies in the sphere of compliance and ethics.

The report is based on the responses of 1,200 global respondents who have the responsibility for managing or influencing their organisations compliance and ethics programmes.

Key findings include:

- 73% of organisations provide ethics and compliance training to their boards generally through in-person or live training
- The number of breaches of internal or legislative requirements, analysis of internal audit findings, exit interviews and employee surveys are the most common techniques for measuring a programme's effectiveness
- The top annual training topics for boards include conflicts of interest, bribery and corruption, and data privacy. However, workplace harassment doesn't rank in the top tier of topics.

The report can be found here.


## Shareholder Activism

### Renewed Shareholder Rebellion

The Investment Association has found that FTSE 100 pay and director re-election spark renewed shareholder rebellion at 2018 AGM season.

"The new data compiled by the Investment Association, the trade body that represents the UK's asset management industry, shows that 120 FTSE All-Share companies were added to the Public Register, which tracks significant shareholder dissent (over 20%), up to the end of July 2018, compared to 110 companies over the same period in 2017."

### Reckless Director Crackdown

ITV News reports that the [Government plans to crack down on 'reckless' directors with hefty fines].

"Directors who dissolve companies to avoid paying workers or pensions could face hefty fines or be banned from running a business under Government plans. The Department for Business, Energy and Industrial Strategy said it was planning to press ahead with proposals to help protect staff, pensions and small suppliers when a company goes bust. […] Under the shake-up, the Insolvency Service would have the power to fine or even disqualify bosses who deliberately dodge debts by dissolving companies and setting up a near-identical business with a new name – a practice known as 'phoenixing' or 'bumping companies'. Other measures in the Government plans include giving struggling companies more time to restructure or attract new funding to rescue the business, in order to help safeguard jobs. Shareholders would also be given more powers to hold boardrooms to account, with executives told to explain to them how they can afford to pay dividends."

### Companies and Activists Find Common Ground

The Chartered Institute of Personnel and Development has published a report titled Executive pay 2018: review of FTSE 100 executive pay packages.

"An annual assessment of FTSE 100 CEO pay packages released today shows that CEO median pay rose by 11% between 2016 and 2017, despite prominent criticism from the investor community and the Government over excessive CEO pay awards in the past year." See here for the full document.

## UK Activism

### Europe Corporate Shake-up

The Financial Times reports US hedge funds join chorus for change at Europe's conglomerates.

"Vocal investors increasingly behind corporate shake-ups on the continent."

### MP Snaps Up Stake from Activist Fund

The Telegraph reports Ukraine MP snaps up JKX Oil stake from activist fund.

"Proxima Capital has sold its almost 20pc stake to a Cayman Island-based investment fund, Cascade, owned by businessman and politician Vitalii Khomutynnik in a deal which marks the end to its more than three year campaign to wrest control of the group."