

UK Listed Companies: Key Legal Developments in 2020

The regulatory regime and disclosure requirements for listed companies in the UK will continue to evolve in 2020. Issuers and their advisers should be aware of the following key legal developments that will occur.

JANUARY

UK Corporate Governance Code 2018 applies to financial years ending on or after 1 January 2019. Companies publishing financial reports for this period in 2020 will need to report on the basis of the updated Code, which clarifies requirements for accountability, workforce engagement, and board diversity, with a greater emphasis on a company's purpose and culture and its relationship with the company's long-term sustainable success. For further details, please see Latham's *Client Alert* – [FRC Releases Revised UK Corporate Governance Code](#).

Single Electronic Reporting Format applies to issuers admitted to an EU regulated market. All such issuers will need to prepare their annual financial reports for financial years beginning on or after 1 January 2020 using the European Single Electronic Format (ESEF). Commission Delegated Regulation (EU) 2019/815 (the ESEF RTS) sets out the detailed requirements for ESEF, which listed companies will need to use when preparing their annual financial reports. The ESEF RTS only addresses the format of annual financial reports; it does not modify their content requirements. The ESEF RTS also does not change the filing requirements or deadlines for annual financial reports. Prospectuses, including any financial statements therein, are not within the scope of the ESEF RTS.

SME Growth Markets Regulation (EU) 2019/2115, which entered into force on 31 December 2019, introduces amendments to the Prospectus Regulation and the Market Abuse Regulation.

The amendments to the Prospectus Regulation are effective from 31 December 2019. They include changes which allow issuers with securities admitted to trading on an SME growth market continuously for at least two years, and which have fully complied with reporting and disclosure obligations, to publish a simplified "transfer prospectus" when seeking admission on a regulated market. This change will enable companies transferring from AIM to the Main Market to prepare a prospectus under the simplified disclosure regime in Article 14 of the Prospectus Regulation, which allows for reduced information on the issuer's business and management and does not require an operating and financial review in the prospectus.

The amendments to the Market Abuse Regulation, which will take effect from 1 January 2021, include changes to the rules relating to the provision of information and market soundings in connection with the issue of bonds, insider lists, and notifications of transactions by persons discharging managerial responsibilities (PDMR transactions).

FCA's consultation on documents on display response deadline was 6 January 2020. The FCA's amendments to the Listing Rules in 2019 inadvertently changed how documents are put on display for Class 1 transactions. Previously, Annex 1 to Listing Rule 13 required a copy of the sale and purchase agreement (or equivalent document) to be "put on display" in hard copy for inspection. By updating the Listing Rules to refer to the Prospectus Regulation requirements for "documents on display", the amended rules now require the sale and purchase agreement to be made available online. As the FCA did not intend to impose this requirement, it is now proposing to correct Annex 1 to Listing Rule 13 to clarify that a copy of the sale and purchase agreement need only be made available in hard copy for inspection and need not be made available online.

FEBRUARY

FCA's consultation on disclosure of rights attached to securities response deadline is 6 February 2020. The FCA has proposed introducing new requirements in the Listing Rules to ensure that investors have access to information on the rights attached to all listed securities. The FCA has noted that, while many issuers with securities admitted to the Official List will have uploaded to the National Storage Mechanism (NSM) a prospectus that includes the terms of their securities or a description of the rights attached, this information may not be publically available for issuers whose securities were first admitted to the Official List prior to November 2013 (when the requirement to upload prospectuses to the NSM was introduced). If implemented, the proposed changes will require issuers with securities admitted to the Official List to publish a prospectus, a document setting out the terms of their securities, or a description of the rights attached to their securities, unless they already have such a document uploaded to the NSM.

APRIL

Streamlined energy and carbon reporting regime

introduced by the Companies (Directors' Report) and Limited Liability Partnership (Energy and Carbon Report) Regulations 2018 is applicable to financial years beginning after 1 April 2019. Companies will be required to include the relevant disclosures in their directors' reports in relation to greenhouse gas emissions, energy consumption, and energy efficient action. See also below in relation to the FCA's consultation paper on climate-related financial disclosure, which is expected in Q2 2020.

Q2 2020

ESMA Guidelines on disclosure requirements under the Prospectus Regulation, a draft version of which was published in July 2019, is expected to be finalised in Q2 2020. Once finalised, the guidelines will replace the ESMA update of the CESR recommendations.

ESMA Final Report on application of the Market

Abuse Regulation is due to be published in spring 2020 setting out the findings of ESMA's consultation launched in October 2019. Areas under review include the definition of inside information, buy-back programs, delays to disclosures, market soundings, and PDMR transactions. For further details please see Latham's *Client Alert – ESMA's Consultation Paper on the MAR Review*.

FCA's consultation paper on new rules for climate-related financial disclosures is due to be published in early 2020. The paper is expected to set out new disclosure requirements for certain issuers (on a comply or explain basis) aligned with recommendations of the Financial Stability Board's Task Force on Climate-Related Financial Disclosures.

Q3 2020

Law Commission report on intermediated securities is due to be published in autumn 2020. The report is expected to cover issues relating to voting rights, schemes of arrangement, an investor's ability to sue a company or a higher intermediary, insolvency and

intermediated securities, the good faith purchaser and intermediated securities, transfers of equitable interests, technological developments, and dematerialisation.

BEFORE END OF 2020

Amendments to Delegated Regulation (EU) 2019/979 containing regulation technical standards under the Prospectus Regulation have been proposed by ESMA to make minor changes relating to the publication of supplementary prospectuses by issuers of convertible or exchangeable securities and the cash flow financial information table in the summary section of prospectuses. These changes are expected to take effect in 2020 once published in the Official Journal.

Independent board evaluation report by the Chartered Governance Institute (formerly ICASA) looking at the effectiveness of independent board evaluation is expected to be published during 2020.

Hampton-Alexander Review on gender balance in FTSE entities recommended that by the end of 2020 all FTSE 350 companies should aim for at least 33% women's representation on their boards, and at least 33% women's representation across their executive committees and those committees' direct reports.

Measures to increase corporate transparency for UK companies are expected to be proposed by the government in 2020. This anticipated development follows the publication of a consultation paper in July 2019 by the Department for Business, Energy & Industrial Strategy, which recommended introducing legislation to increase the level of information provided by UK companies to Companies House, including requiring directors of UK companies to verify their identity. Information provided by directors would not be publically available but could be provided by Companies House to law enforcement officials on a case-by-case basis. New measures requiring non-listed companies to disclose details of shareholders have also been recommended.

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