



TaylorWessing

UK REIT Horizon Scanner Q3 2023

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Key issues

Key issues coming up for UK Main Market REITs in corporate, financial regulatory, planning, real estate, securities law and regulation, tax¹ and in relation to ESG matters, in England (including retained EU law²).

Issue/status/timing: New developments since our March 2023 edition are shown in **green text**.

Impact: urgency/impact rating for REITs admitted to London Stock Exchange Main Market (including the Specialist Fund Segment³)

- **Red – likely to have material impact**
- **Amber – limited impact or await developments**
- **Green – minor or no direct impact**

Published as at: **30 June 2023 (although some further updates have been included to reflect the Chancellor of the Exchequer's Mansion House speech given on Monday 10 July 2023)**

- ¹ We have set out below the proposed tax changes that are likely to directly and materially impact REITs. We have not sought to cover changes of more general application, which may also impact REITs.
- ² 'retained EU law' is EU law incorporated into UK domestic law from the end of the Brexit transition period, as amended.
- ³ Although the Listing Rules do not apply to the SFS, it is common for SFS companies voluntarily to comply with certain key Listing Rules and to state an intention to comply with the UK Corporate Governance Code.

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The logo for TaylorWessing, featuring the company name in a teal, sans-serif font. The background of the slide is a photograph of a modern glass skyscraper with a grid of windows reflecting the sky.

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The main section header, consisting of a teal vertical bar followed by the text '1 | Equity capital markets' in a white, bold, sans-serif font.

1 | Equity capital markets

UK REIT Horizon Scanner Q3 2023

Equity capital markets

Key developments in Q2 2023

- Takeover Code amendments, including on competitive bid situations, took effect and Takeover Panel consults on changes to Rule 21 restrictions on frustrating action
- Near-final regulations published which create a new regulatory framework for public offers and admissions to trading
- FCA consults on proposals to radically reform the existing UK listing regime, and publishes engagement papers on reforms to the prospectus regime
- Retained EU Law (Revocation and Reform) Act 2023 received Royal Assent
- Alignment of criminal regime for insider dealing and unlawful disclosure of inside information with the civil regime in the UK Market Abuse Regulation

Issues	Status	Key Timing	Impact
<p>Takeovers: competitive bid offer timetable and other miscellaneous Code amendments</p> <p>Affects: all companies and transactions subject to the Takeover Code</p>	<p>On 22 May 2023, amendments to the Takeover Code took effect which clarify how the offer timetable applies where there are competing bids involving a takeover by scheme of arrangement, along with various miscellaneous amendments. This includes for ongoing transactions which straddle that date, except where that would give amendments retroactive effect. The final rule changes are set out in Response Statements 2022/3 and 2022/4. See previous editions of the UK REIT Horizon Scanner for further details.</p>	22 May 2023	Red
<p>Takeovers: consultation on amendments to Rule 21 of the Takeover Code</p> <p>Affects: all companies and transactions subject to the Takeover Code</p>	<p>On 15 May 2023, the Code Committee of the Takeover Panel published PCP 2023/1 seeking views on proposed amendments relating to Rule 21 of the Takeover Code which relate to frustrating action and other matters. Comments are requested by 21 July 2023. The Committee expects to publish a Response Statement setting out the final amendments to the Code in Autumn 2023 and anticipates that the changes will come into effect one month after publication of the Response Statement. The proposals include, amongst others, amendments to Rule 21.1(a) which currently sets out specific actions that may not be taken by the target board without shareholder approval, including issuing shares or options, disposing of or acquiring assets of a material amount or entering into contracts outside the ordinary course of the target's business. The Code Committee is not proposing significant amendments to Rule 21.1(a), but believes that it would be helpful to give target companies increased flexibility in carrying on their ordinary activities, particularly for companies whose ordinary course of business involves buying and selling assets. Therefore, the Committee proposes that Rule 21.1(a) should not restrict a proposed action that is in the ordinary course of the target's business. In addition, the rule should only apply to a disposal or acquisition of assets of a material amount or to the entry into, amendment or termination of a material contract.</p>	Autumn 2023	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>DTR 4.1: structured digital reporting of annual financial statements</p> <p>Affects: companies which prepare annual financial reports under DTR 4.1</p>	<p>On 12 January 2023, the FCA published a consultation paper (CP23/2) on proposed changes to streamline its rules requiring DTR 4.1 issuers to prepare, publish and file with the FCA their annual financial report in an electronic format, and for the financial statement within it to be in a structured digital format. Comments were requested by 24 February 2023, and subject to feedback and HM Treasury approval, the FCA intends to effect the proposals as soon as practicable in 2023.</p>	2023	Amber
<p>Reforms to UK listing regime</p> <p>Affects: mainly listed commercial companies but may affect closed-ended investment funds in the future</p>	<p>The government is undertaking a fundamental review of the UK listing regime following the publication of Lord Hill's UK Listing Review Report in March 2021. The work delivering the outcomes of Lord Hill's review, and those of the Prospectus Regime Review (see entry below), forms part of the wider government programme of reforms to the financial services framework known as the Edinburgh Reforms (see previous editions of the UK REIT Horizon Scanner for background).</p> <p>The FCA is also conducting a review of the listing regime in response to the UK Listing Review (see previous editions of the UK REIT Horizon Scanner for background) and, on 3 May 2023, published consultation paper: Primary Markets Effectiveness Review (CP 23/10). CP 23/10 contains feedback on earlier proposals (DP 22/2) and further consultation on preliminary policy proposals in relation to the evolving equity listing rule reforms. The consultation closed on 28 June 2023, with draft rules relating to the proposals expected in Autumn 2023 and implementation in early 2024. The key proposals put forward by the FCA include the following.</p> <p><i>Single listing segment</i></p> <ul style="list-style-type: none"> Establishment of a single listing segment for equity shares in commercial companies to replace the existing premium and standard listing segments (however, separate categories of listing for other types of securities and shares in investment vehicles, including closed-ended investment funds, are expected to remain). The new listing segment will have more straightforward eligibility criteria and less onerous continuing obligations than the existing premium listing segment. <p><i>Eligibility</i></p> <ul style="list-style-type: none"> Removal of the requirement for a three-year financial track record and the production of three years of audited accounts covering at least 75% of the issuer's business, and removal of the requirement to produce an unqualified working capital statement. Removal of the requirement to have a relationship agreement in place with a controlling shareholder, if the issuer makes specific disclosures explaining why it has a controlling shareholder. Adoption of a more flexible approach to dual class share structures (which will remain limited to directors), including to allow (i) weighted voting structures to survive for up to 10 years; (ii) there to be no specified voting ratio or weighting limits; and (iii) special voting rights to be generally exercisable and not strictly on certain reserved matters. 	Ongoing	Red

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Reforms to UK listing regime (cont.)</p> <p>Affects: mainly listed commercial companies but may affect closed-ended investment funds in the future</p>	<p>(key proposals continued...)</p> <p><i>Continuing obligations</i></p> <ul style="list-style-type: none"> • Removal of the need for compulsory shareholder circulars and approval for related party transactions, although a fair and reasonable opinion will need to be provided for related party transactions $\geq 5\%$. • Removal of compulsory shareholder circulars and approval for class 1 transactions, provided prescribed disclosures of the key transaction details are made for transactions $\geq 25\%$. • Simplification of requirements relating to independent business and operations control over the company's main activities. • Introduction of a single set of Listing Principles and related provisions. • Retention of the comply or explain approach in the UK Corporate Governance Code (which will apply to all commercial companies issuing equity shares). 	Ongoing	Red
<p>Secondary capital raising review: final report and recommendations</p> <p>Affects: listed companies</p>	<p>On 19 July 2022, HM Treasury published the final report in relation to its UK Secondary Capital Raising Review (SCRR) for improving secondary capital raising processes for UK listed companies. It sets out a series of recommendations to the government, the FCA and the Pre-Emption Group (PEG) which include those set out below (some of which have now been actioned). Some of the recommendations in the SCRR cross over into other regimes, e.g. IPO and prospectus, and will require reforms to be made to those regimes before the recommendations can be implemented. The government accepted all the recommendations in the report, and intends to amend the Companies Act 2006 to shorten rights issues and the processes around them (see below). See previous editions of the UK REIT Horizon Scanner for background.</p> <p><i>Increasing the ability of companies to raise smaller amounts of funds quickly and cheaply</i></p> <p>On 4 November 2022, the PEG published a revised Statement of Principles for the disapplication of pre-emption rights (SOPs) in light of the SCRR, along with template resolutions (effective immediately). For details, see UK REIT Horizon Scanner Q1 2023.</p> <p><i>Maintaining and enhancing the pre-emption regime</i></p> <p>Including providing PEG with a more formal and transparent governance structure and requiring it to report annually on the operation of the pre-emption regime. To this end, on 26 April 2023, the FRC published Pre-Emption Group: Terms of Reference which outline PEG's role, membership structure and working practices.</p>	Various – Ongoing	Red

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Secondary capital raising review: final report and recommendations (cont'd)</p> <p>Affects: listed companies</p>	<p>(Recommendations cont.)</p> <p><i>Reduced regulatory involvement in larger fundraisings</i> Related to the forthcoming prospectus regime changes (see entry below), the threshold required for producing a prospectus in connection with a secondary raise will increase from 20% of its existing share capital to 75%. In addition, a sponsor firm should not need to be appointed in connection with a secondary fundraising, although sponsor declarations on a circular will continue for certain offers linked to a material acquisition. Updates to the disclosure requirements relating to working capital statements and importance of vote language are also being considered. Near term implementation.</p> <p><i>Involve retail investors in all capital raisings</i> On all capital raisings, companies should give due consideration to the interests of retail shareholders. In addition to the follow-on offer disapplication point dealt with in the SOPs, the period a prospectus for an IPO involving a retail offer has to be made publicly available should be shortened to three working days (from six). Near term implementation as part of wider prospectus regime review .</p> <p><i>Increase the range of choice of available fundraising structures</i> Recommendations include the adoption of the Australian concept of a 'cleansing notice' for secondary fundraisings not involving a prospectus. Companies to confirm via a cleansing notice that it is in full compliance with its ongoing disclosure obligations and that it is not delaying the disclosure of any inside information. Near/medium term implementation.</p> <p><i>Raise the priority of the 'drive to digitisation'</i> Key aim is for all shareholders to hold shares in digitised form. See entry below 'Digitisation of UK shareholding framework'.</p> <p><i>Make existing fundraising structures quicker and cheaper</i></p> <ul style="list-style-type: none"> • Offer periods for rights issues and open offers shortened to seven business days (from ten). Near term implementation. • Flexibility for notice periods for shareholder meetings (not AGMs) to be reduced to seven clear days. Medium term implementation. • CA 2006 pre-emption amended to align to usual process followed on rights issue or open offer. Near/medium term implementation. • Listing regime amended to allow for excess application mechanics attached to rights issues. Near term implementation. • So companies can market rights issues to US and EEA shareholders without needing a prospectus: (i) allow companies to opt-in to enhanced continuous disclosure regime (including via annual reports); (ii) apply usual director liability regime for market disclosure to any documents and information published in connection with a secondary fundraising. Near/medium term implementation. 	<p>Various – Ongoing</p>	<p>Red</p>

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Reforms to UK prospectus regime</p> <p>Affects: companies looking to make a public offer or for admission to trading</p>	<p>As part of the UK Listing Review (mentioned above), Lord Hill recommended that HM Treasury conduct a fundamental review of the UK prospectus regime. The government consulted on the UK prospectus regime in July 2021, and proposed repealing and replacing the current prospectus regime (which derives from the EU Prospectus Regulation which became retained EU law following Brexit) with an updated UK regime. On 1 March 2022, HM Treasury published the outcome of that consultation (for details, see previous editions of the UK REIT Horizon Scanner).</p> <p>On 11 July 2023, the government published a near-final version of the Public Offers and Admissions to Trading Regulations 2023 (Policy Note and webpage). This SI replaces retained EU law related to the Prospectus Regime and creates a new regulatory framework for public offers and admissions to trading. It is similar to the illustrative SI published in December 2022 (see UK REIT Horizon Scanner Q1 and Q2 2023), but with the changes below.</p> <ul style="list-style-type: none"> • Definition of "relevant securities": clarifies that certain securities are outside scope, e.g. over-the-counter derivatives. • FCA's powers over multilateral trading facilities: clarifies that the FCA will only have powers to require an MTF admission prospectus where the securities are being admitted to trading on markets open to retail investors. • Public offer platforms: Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 amended to provide that operating a public offer platform is a regulated activity. • Offers of securities not admitted to trading: the current regime requires offers to the public of €8 million or above to have a prospectus, but this acts as a cap on such capital raising. There will be a change to the requirements for such offers in that a prospectus will no longer be required, but rather that offers of securities above a £5 million threshold will need to be made through a public offer platform, to be achieved through the creation of a new regulated activity covering this (see point above), unless another exemption applies (more detail can be found in the Policy Note referred to above). • Exceptions to the prospectus regime: these ensure the scope is appropriate and does not cause unintended disruption. <p>The remaining parts of retained EU law with regard to prospectuses will be repealed and replaced with FCA rules where specified by the FCA. Detailed FCA rules will follow, which, together with the above SI, will create the new regime. Parliamentary time permitting, the government intends to legislate for the new regime by the end of 2023. Deadline for comments on the regulations is 21 August 2023.</p> <p>The FCA has outlined the main areas for engagement on the new regime on its dedicated website and has published the following:</p> <ul style="list-style-type: none"> • Engagement Paper 1: admission to trading on a regulated market. This seeks views on: when a prospectus should be required for admission to regulated markets or when exemptions should apply; the required content of a prospectus for initial admissions; the format of a prospectus documents; and the responsibility for a prospectus and how it is approved. • Engagement Paper 2: further issuances of equity on regulated markets. This seeks views on (inter alia): whether the FCA should be more ambitious in seeking to reduce requirements for a prospectus for further issuances than for issuances at IPO; whether the FCA should set a threshold (that is, on the size of the further issuance as a percentage of existing share capital) for a requirement to publish a prospectus; and what document should be required if a prospectus is not required. 	<p>End of 2023</p>	<p>Red</p>

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Reforms to UK prospectus regime, cont'd</p> <p>Affects: companies looking to make a public offer or for admission to trading</p>	<p><i>Cont.d</i></p> <ul style="list-style-type: none"> • Engagement Paper 3: protected forward-looking statements (PFLS). This seeks views on: what types of forward-looking statements should be allowed as PFLS and how they should be defined; whether the FCA should set certain minimum criteria or expectations for how PFLS are produced; whether sustainability-related disclosures should be included as PFLS; and how PFLS should be presented or labelled within a prospectus document. • Engagement Paper 4: Non-equity securities. This seeks views on how the FCA may improve the regimes for non-equity securities under the new public offers and admission to trading regimes. • Engagement Paper 5: public offer platform. This seeks views on the rules for the new regulated activity of operating a public offer platform under the new public offers and admission to trading regime. • Engagement Paper 6: multilateral trading facilities. This seeks views on the future rules for MTFs under the new public offers and admission to trading regime. <p>The deadline for responses to these papers is 29 September 2023, and the FCA intends to consult on specific rules in 2024.</p>	End of 2023 and into 2024	Red
<p>Digitisation of UK shareholding framework</p> <p>Affects: listed companies at first, but potentially all companies with shareholders</p>	<p>On 11 July 2023, the Digitisation Taskforce (see previous editions of the UK REIT horizon Scanner) published its interim report regarding reforms to the UK's shareholding framework. Its potential recommendations include the following.</p> <ul style="list-style-type: none"> • Legislation and amendments to articles of association to stop new paper share certificates being issued. • Legislation to require dematerialisation of all share certificates at a future date, to be determined as soon as possible. • Consultation on the preferred approach to residual paper share interests and whether a time limit should be imposed for the identification of untraced ultimate beneficial owners (UBOs). • Intermediaries should be obliged to put in place technology that enables them to respond quickly to UBO requests, and those offering shareholder services should be fully transparent about which clients can access their rights as shareholders, as well as any charges. • Where intermediaries offer access to shareholder rights, the baseline service should facilitate the ability to vote and provide a two-way communication and messaging channel, through intermediaries, between the issuer and the UBOs. <p>The interim report seeks views on various aspects, including: the timeline for all share certificates to be dematerialised; the approach to be taken on residual certificated holdings, and whether the facilitation of shareholder rights should be left to market forces. Feedback is requested by 25 September 2023, with the final report issued within six months.</p> <p>Also on 11 July 2023, HM Treasury published a consultation on proposals for a Digital Securities Sandbox (DSS) which will test how existing UK legislation (including the Companies Act 2006) will need to change to accommodate digital asset technology and the new practices associated with it. Responses are requested by 21 August 2023, with legislation to follow. The Bank of England and FCA will publish further guidance, consult on rule changes and set out the application process.</p>	25 September 2023	Red

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Market abuse: insider dealing</p> <p>Affects: market participants</p>	<p>On 15 May 2023, the Insider Dealing (Securities and Regulated Markets) Order 2023 came into force (explanatory notes). The Order aligns the scope of the criminal offence regime for insider dealing and unlawful disclosure of inside information under the Criminal Justice Act 1993 with that of the civil regime in the UK Market Abuse Regulation.</p>	15 June 2023	Amber
<p>National Security and Investment Act 2021: market guidance published</p> <p>Affects: companies making acquisitions which need to be notified under NSIA</p>	<p>On 4 January 2022, the National Security and Investment Act 2021 (NSIA) came into force expanding the government's powers to scrutinise, and to intervene in, certain acquisitions and investments on national security grounds. For further detail, see UK REIT Horizon Scanner Q1 2022. BEIS has since issued various publications, including NSIA 2021: Market Guidance Notes April 2023 which provides practical guidance on the national security and investment regime. This updates the first edition (see UK REIT Horizon Scanner Q4 2022). The April 2023 Market Guidance Note includes new or amended guidance in areas including the timing and contents of a notification, notifications involving parties facing material financial distress, engaging with the government where there is significant uncertainty as to whether a transaction is within the scope of the mandatory notification regime, the various stages of the NSI assessment process and the government's power to provide financial assistance to parties affected by a final order. Also, on 11 July 2023, the Cabinet Office published the statutory annual report covering the operation of the NSIA between 1 April 2022 and 31 March 2023.</p>	Ongoing	Amber
<p>Consultation on power to block listings on national security grounds</p> <p>Affects: potentially all companies seeking to list on UK public markets including SPACs</p>	<p>The government's initial consultation on the scope of a proposed new power to block a company's listings on national security grounds closed on 27 August 2021. While the government intends that the new power will be targeted and precautionary, and therefore not affect the vast majority of companies seeking to raise capital on UK financial markets, the scope of the precautionary power will include all initial equity listings and admissions to trading on UK public markets and will extend to SPACs. For further detail, see previous editions of the UK REIT Horizon Scanner.</p> <p>HM Treasury anticipates further technical consultations will be required as the power is developed. In addition, the consultation paper notes that the circumstances and rationale for government intervention will be covered more extensively in a further consultation.</p>	Ongoing	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Brexit: changes to the current status and operation of retained EU law</p> <p>Affects: depends on government policy, but will impact capital markets, e.g. prospectus regime (see entry above)</p>	<p>On 29 June 2023, the Retained EU Law (Revocation and Reform) Bill received Royal Assent and became the Retained EU Law (Revocation and Reform) Act 2023 (REULA 2023). Principally, with effect from the end of 2023, REULA 2023 will:</p> <ul style="list-style-type: none"> • automatically repeal the retained EU-derived secondary legislation and retained EU direct legislation listed in Schedule 1. All other retained EU law will remain in force and will become known as 'assimilated law'. The latter will include all EU-derived primary legislation as well as direct retained EU subordinate legislation that is not specified in Schedule 1; and • abolish the principle of the supremacy of EU law. General principles of EU law will also cease to have effect in UK domestic law. <p>REULA 2023 will also make it easier to amend or revoke retained direct principal EU legislation so that it can be amended by secondary legislation. It contains broad powers for government ministers and devolved authorities to restate, revoke, replace or make alternative provision for secondary retained EU law and assimilated law. REULA 2023 will also make changes to the way that courts can depart from retained EU case law. However, the extent of legal change remains uncertain. This is because REULA 2023 was not accompanied by any policy statement from government specifying how it intends to use its powers and the various mechanisms offered under the Act to change the content and operation of retained EU law. The government has not published a definitive list of retained EU law (or assimilated law). The government's dashboard of retained EU law is neither comprehensive nor definitive, and the entries only represent relevant government departments' best understanding of what might comprise retained EU law.</p> <p>Note that REULA 2023 does not apply to any EU-derived financial services legislation or FCA/PRA rules. These are dealt with in the Financial Services and Markets Act 2023. See section 3, Financial regulatory.</p> <p>Also note that, alongside the Trade and Cooperation Agreement was a non-binding joint declaration on financial services regulatory cooperation. See Section 3, Financial regulatory. In relation to equivalence, currently, FCA approved prospectuses cannot be passported into the EU/EEA, so approval by a relevant competent authority is required for offers into those countries if applicable exemptions are not available.</p>	<p>31 December 2023 in the first instance</p>	<p>Amber</p>

Equity capital markets (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Takeovers: acting in concert</p> <p>Affects: all companies and transactions subject to the Takeover Code</p>	<p>On 20 February 2023, changes to the Takeover Code regarding the definition of 'acting in concert' came into force. The Code Committee of the Takeover Panel's response statement (RS 2022/2) sets out feedback received from its consultation and Instrument 2022/6 outlines the amendments made. The online version of the Code has been updated (Panel Statement 2023/3). Amongst other things, the new rules raise the threshold at which the presumption of acting in concert is engaged from 20% to 30% and also clarify how the presumptions apply to investment funds and limited partnerships.</p>	<p>February and May 2023</p>	<p>Red</p>
<p>Regulated information: multimedia content</p> <p>Affects: issuers submitting regulated information for dissemination</p>	<p>The FCA warns against using multimedia content (e.g. audio and video content) as part of any regulated information submitted for dissemination because of the risk to market users by potentially blurring what is regulated information, including inside information, and what is not (PMB 44). It also flags the risk that regulatory announcements containing multimedia content could breach certain requirements in the DTRs and the MAR.</p>	<p>Ongoing</p>	<p>Red</p>
<p>EU Capital Markets Union: Commission announces further developments</p> <p>Affects: companies listed, or looking to list, in the EU</p>	<p>On 7 December 2022, the European Commission announced its intention to further develop the EU's Capital Markets Union. The measures include: making EU clearing services more attractive and resilient; harmonising certain corporate insolvency rules across the EU; and, a new Listing Act to alleviate the administrative burden for companies of all sizes. For details, see UK REIT Horizon Scanner Q1 2023. The legislative proposals for all of the measures will now be submitted to the European Parliament and the Council for adoption. The European Commission has also published Q&A on the corporate insolvency and listing proposals, and related Factsheet, as well as Q&A and a Factsheet for the clearing proposals.</p>	<p>Ongoing</p>	<p>Amber</p>
<p>Prospectus Regulation: ESMA updates Q&A</p> <p>Affects: listed companies</p>	<p>On 3 February 2023, ESMA published an updated version of its Prospectus Regulation Q&As containing a new question that considers whether the purchase of securities via a joint account would be considered a purchase by one investor for the purposes of Article 1(4)(d) EU Prospectus Regulation (question 15.10).</p>	<p>Ongoing</p>	<p>Green</p>
<p>Prospectuses: schemes of arrangement</p> <p>Affects: listed companies</p>	<p>On 20 March 2023, the FCA published Primary Market Bulletin 44 (PMB 44). In it, the FCA notes that it will not be publishing the technical note it proposed in Primary Market Bulletin 30 (published August 2020) relating to the requirement to publish a public offer prospectus where securities are issued under a scheme of arrangement. This is because the respondents to the consultation were of the view that, where securities are allotted under a scheme there is no 'offer to the public' and therefore no public offer prospectus is required. The FCA adds, however, that ultimately this is for the courts to decide..</p>	<p>Ongoing</p>	<p>Green</p>

The logo for TaylorWessing, featuring the company name in a teal, sans-serif font. The background of the slide is a photograph of a modern glass skyscraper with a grid of windows and vertical mullions, reflecting the sky and surrounding environment.

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| 2 | General corporate

General corporate

Key developments in Q2 2023

- FRC published a minimum standard for audit committees
- FRC published consultation on proposed revisions to the UK Corporate Governance Code
- Government launched review of non-financial information reporting framework
- Government is making changes to the corporate criminal liability framework in the UK
- IA published new guidance on requisitioned shareholder resolutions

Issues	Status	Key Timing	Impact
Audit and corporate governance: major reforms to audit and corporate governance systems Affects: all companies	<p>On 31 May 2022, the government published its response to BEIS' (as was) White paper: Restoring trust in audit and corporate governance. For background, see previous editions of the UK REIT Horizon Scanner.</p> <p>On 12 July 2022, the FRC published a position paper setting out how it will address issues in the government response which fall within its remit. However, on 26 March 2023, the FRC published its 3 Year Plan, setting out its priorities for 2023 to 2026. The draft plan, inter alia, acknowledges that the Audit, Reporting and Governance Authority (ARGA) is now likely to come into effect in 2024 (not 2023).</p>	<p>Ongoing</p> <p>2024 for introduction of ARGA</p>	Amber
Audit and corporate governance: minimum standard for audit committees Affects: FTSE 350 companies	<p>On 22 May 2023, the FRC published a minimum standard for audit committees, which aims to enhance performance and ensure a consistent approach across audit committees, focusing on: auditor appointment and associated tendering process; ongoing audit and auditor oversight; and reporting on work the audit committee has done in respect of the audit and on compliance with the standard. The standard applies to FTSE 350 audit committees who can adopt it on a voluntary basis before legislation is adopted to make it mandatory. Audit committees should review the requirements and consider updating their terms of reference to make reference to the new standard.</p> <p>Further, the FRC has launched a new webpage providing conversation starters intending to promote better engagement between investors and audit committees to facilitate better understanding of companies and their approach to financial reporting and internal control.</p>	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Audit and corporate governance: disclosure of dividend policies</p> <p>Affects: larger companies</p>	<p>On 29 June 2023, the FRC Lab published its review of the current market practice regarding dividend-related disclosures: Insight Report: Disclosure of dividends revisited. The review notes that high-quality disclosure means reporting on how and why dividend policies are changed or retained in light of the wider economic environment, and linking that to a company's growth strategy.</p>	Ongoing	Amber
<p>Corporate governance: FRC publishes proposed amendments to UK Corporate Governance Code for consultation</p> <p>Affects: mainly premium listed companies and those how choose to apply the Code</p>	<p>On 24 May 2023, the FRC published proposed revisions to the UK Corporate Governance Code for consultation. The majority of amendments are to section 4 on Audit, Risk and Internal Control. No structural changes have been made. Proposed amendments include the following.</p> <ul style="list-style-type: none"> • All significant director appointments should be listed in the annual report, describing how each director has sufficient time to undertake their role effectively in light of other commitments, with annual board performance reviews which consider these other commitments and the director's ability to discharge responsibilities (see below). • Proposals to strengthen the Code in relation to diversity and inclusion. • Adopting certain recommendations from the Chartered Governance Institute's 2021 review of the effectiveness of independent board evaluation in the UK listed sector. • Giving the audit committee responsibilities for the audit assurance plan and engaging with shareholders; monitoring the integrity of narrative reporting, including sustainability matters; and promoting effective competition during the tendering for external auditors. • Making the board responsible for maintaining the effectiveness of the risk management and internal control framework. • Retaining going concern and amended viability statement provisions for non-PIE companies. • Introducing an annual report board declaration that the company's risk management and internal control systems have been effective throughout the reporting period. • Highlighting the importance of aligning remuneration outcomes to company performance, purpose and values including ESG objectives and revisions intended to improve reporting on executive remuneration policies. • Director contracts and other documents covering director remuneration should include malus and clawback provisions. • That the annual report should describe how environmental and social matters are taken into account in board strategy, including climate ambitions and transition planning. <p>The revised Code will be supported by updated guidance. Comments are requested by 13 September 2023. The FRC intends the revised Code to apply to accounting years commencing on or after 1 January 2025 to allow sufficient time for implementation.</p> <p>Also, on 4 July 2023, the Chartered Governance Institute published a revised Code of Practice for board reviewers, Principles of Good Practice for listed companies using external board reviewers and Guidance for listed companies on reporting on board performance reviews.</p>	13 September 2023, accounting years commencing on or after 1 January 2025	Red

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Corporate reporting: non-financial reporting call for evidence</p> <p>Affects: potentially all companies</p>	<p>On 24 May 2023, the Department for Business and Trade (along with the FRC) published a call for evidence for the non-financial reporting (NFR) information review. The call for evidence primarily focuses on non-financial information requirements that are contained in Part 15 of the Companies Act 2006 only (and equivalent requirements for LLPs). Topics on which it seeks views include those below.</p> <ul style="list-style-type: none"> • The costs and benefits of producing, and the value of, non-financial information. • How the NFR regime might be improved in the future, and what are the priorities for the UK's future NFR framework. • The appropriateness and relevance of company size thresholds in the CA 2006. • How to integrate the International Sustainability Standards Board standards into the UK's reporting framework (see section 6, ESG). • The different reporting requirements (e.g. modern slavery and gender pay gap) and how these fit within wider NFR frameworks. <p>The call for evidence is directed at all interested parties, including companies and closes on 16 August 2023, after which the government intends to develop proposals for public consultation in 2024 and, subject to stakeholder views, look to legislate for any changes.</p>	16 August 2023, and 2024	Red
<p>Corporate governance: requisitioning shareholder resolutions</p> <p>Affects: mainly public companies</p>	<p>On 30 June 2023, the Investment Association published guidance for institutional investors on the effective requisitioning of shareholder resolutions. The guidance provides an overview of the key steps for filing a resolution at a UK company. It outlines key barriers (including in relation to inside information under UK MAR, acting in concert provisions under the Takeover Code and DTR 5 disclosures), as well as guidance on their mitigation.</p>	Ongoing	Amber
<p>Corporate governance: AGM Practices and Shareholder Rights: ICGN</p> <p>Affects: all companies hosting AGMs</p>	<p>On 19 April 2023, the International Corporate Governance Network published a statement on post COVID-19 AGM practices and shareholder rights. In particular, it makes clear that the hybrid format is the optimal AGM format allowing for the in-person presence of shareholders whilst also accommodating access to the meeting via electronic or virtual means. It encourages regulators to consult with stakeholders in considering changes to regulation or legislation regarding AGMs, particularly matters impacting shareholder rights.</p>	2023	Red
<p>Corporate governance: AIC updated corporate governance roundup</p> <p>Affects: investment companies</p>	<p>The AIC has updated its corporate governance roundup paper which summarises the key positions taken by governance agencies in relation to various matters of interest for its sector.</p>	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Economic crime/PSC regime: Companies House publishes revised guidance</p> <p>Affects: all companies</p>	<p>On 1 April 2023, Companies House published an updated version of its Guidance: Report a discrepancy about a beneficial owner on the PSC register. Under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, an "obliged entity" must report to Companies House any discrepancies between beneficial ownership information regarding an entity that it discovers as part of initial customer due diligence and the information held at Companies House.</p> <p>From 1 April 2023, the reporting requirement will be restricted to "material" discrepancies that can reasonably be considered to be linked to money laundering or terrorist financing, or to conceal details of the customer's business. The details of the customer's business include a PSC and the registrable beneficial owner of an overseas entity (see entry below). As such, from 1 April 2023, obliged entities must report material discrepancies about registrable beneficial owners of an overseas entity. Obligated entities also must now report material discrepancies throughout a business relationship, not just at the start.</p>	1 April 2023	Red
<p>Corporate transparency and economic crime: Register of Overseas Entities</p> <p>Affects: all companies and non-UK entities which own UK property</p>	<p>The Economic Crime (Transparency and Enforcement) Act 2022 (ECTEA 2022) received Royal Assent on 15 March 2022. For background, see previous editions of the UK REIT Horizon Scanner.</p> <p>In brief, under Part 1 of the ECTEA 2022, overseas entities who wish to own UK land will need to identify their beneficial owners, and if relevant, managing officers, and register them on a new register of beneficial ownership, held by Companies House (Register of Overseas Entities – ROE (Press Release)). These requirements apply retrospectively to property acquired since January 1999, and under transitional provisions, overseas entities which owned registered property before 1 August 2022 had until 31 January 2023, to register. If an overseas entity did not apply to register by that date, it has committed a criminal offence and will effectively be unable to sell, lease or charge its registered property. Also, once registered, information must be updated annually and failure to do so will also attract a criminal offence.</p> <p>On 1 June 2023, the Register of Overseas Entities (Definition of Foreign Limited Partner, Protection and Rectification) Regulations 2023 (Explanatory Memorandum) came into force. In brief, these regulations:</p> <ul style="list-style-type: none"> • prescribe the characteristics of a 'foreign limited partner' for the purposes of ECTEA 2022; • amend the criteria for granting applications for protection of personal information; • allow for information held on the ROE to be removed following an application for rectification under certain circumstances; and • amend the protection elements of the Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022. <p>On 21 June 2023, Companies House published guidance on how it will use its enforcement powers in relation to the ROE, and on 28 June 2023 published guidance on how to file an update statement for an overseas entity and its beneficial owners or managing officers.</p>	January 2023 and ongoing	Red

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Corporate transparency and economic crime: Companies House reform</p> <p>Affects: all companies</p>	<p>Following the government White Paper: Corporate transparency and register reform (see previous editions of the UK REIT Horizon Scanner, in particular Q2 2022), on 22 September 2022, the Economic Crime and Corporate Transparency Bill 2022 was published to sit alongside the ECTEA 2022 (see entry above). Broadly, the Bill:</p> <ul style="list-style-type: none"> widens the Registrar's powers so that it becomes a more effective gatekeeper over company incorporation and custodian of more reliable company (and other UK registered entity) data; introduces identity verification requirements for all new and existing registered company directors, People with Significant Control and those delivering documents to the Registrar; tackles the abuse of LPs by strengthening transparency requirements and enabling them to be deregistered; creates powers to quickly and more easily seize and recover cryptoassets (the principal medium used for ransomware); introduces new exemptions from the principal money laundering offences to reduce unnecessary reporting by businesses carrying out transactions on behalf of their customers and new law enforcement powers to obtain information to tackle money laundering and terrorist financing, and enables businesses in certain sectors to share information more effectively to prevent and detect economic crime. <p>On 20 June 2023, the government confirmed in a Factsheet that it is not proceeding with identity verification requirements for shareholders who are not people with significant control as had been tabled during the Bill's passage through Parliament.</p> <p>Companies House has been publishing blog posts in relation to its role in various changes under the Bill. These include Using the advanced search function, which explains how to use this feature of Find and update company information.</p> <p>The Bill has completed its report stage in the House of Lords and will move to its third reading. Key amendments include those in relation to nominee shareholders (proposed new provision requires nominee shareholders to declare under whose control their shares are held); the registrar's power to strike off a company; the failure to prevent fraud and money laundering offence (see entry below); criminal liability for economic crimes (see entry below); disclosure of profit and loss accounts for certain companies; and filing at Companies House.</p>	Ongoing	Red
<p>Economic crime: changes to corporate criminal liability framework</p> <p>Affects: all companies</p>	<p>The government is making changes to the UK's corporate criminal liability framework to make it easier to prosecute companies for economic crime. Firstly, it will introduce a new corporate criminal offence for failure to prevent fraud (press release and factsheet), and secondly it will allow for the attribution of criminal liability to corporates where senior managers commit certain economic crime offences (press release). Both reforms will be brought about as part of the Economic Crime and Corporate Transparency Bill regime (see above).</p>	Ongoing	Red
<p>Corporate re-domiciliation</p> <p>Affects: all foreign-incorporated companies</p>	<p>On 12 April 2022, the government published a response to its consultation on proposals to introduce a UK corporate re-domiciliation regime to enable foreign-incorporated companies to change their place of incorporation to the UK while maintaining their legal identities as corporate bodies. The government confirmed that it intends to introduce the regime and will now refine the policy. No timescales are given.</p>	Ongoing	Green

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Non-compete clauses: 3 months limit</p> <p>Affects: UK employers and employees</p>	<p>On 10 May 2023, the Department for Business and Trade published a policy paper setting out measures intended to grow the economy, including some proposed changes to non-compete clauses, as well as the Working Time Regulations 1998 and TUPE. In relation to non-competes, the government indicated in its response to its related consultation, that it will introduce a statutory limit on the length of non-compete clauses of 3 months and will bring forward legislation to introduce the statutory limit when parliamentary time allows.</p>	Ongoing	Amber
<p>Late payment practices</p> <p>Affects: large companies</p>	<p>On 3 December 2022, BEIS (as was) launched the Payment and Cash Flow review which will scrutinise the effectiveness of current measures to combat late payment practices. As part of this, on 31 January 2023 BEIS (as was) published a consultation on proposals to amend the Reporting on Payment Practices and Performance Regulations 2017 and the Limited Liability Partnerships (Reporting on Payment Practices and Performance) Regulations 2017 and seeks views on, amongst other things: whether the Regulations should be extended beyond their current expiry date of 6 April 2024; referencing payment reporting in a company's director's report; and a clarification of how supply chain finance is reported. Deadline is 28 April 2023 with a government response within 12 weeks.</p>	<p>Ongoing</p> <p>Within 12 weeks of 28 April 2023</p>	Amber
<p>Accounting: 2023 IFRS Standards and FRC thematic review of IFRS 13</p> <p>Affects: listed companies preparing consolidated financial statements</p>	<p>In April 2023, the UK Endorsement Board has published the 2023 IFRS Standards on behalf of UK government.</p> <p>Also, on 13 June 2023, the FRC published a Thematic Review of IFRS 13 and fair value measurement. IFRS 13 defines fair value, sets out a framework for measuring fair value, and requires disclosures about fair value measurements. In general, although the application by larger companies of IFRS 13 is generally satisfactorily, and its principles are well understood by certain sectors (e.g. banking, insurance and real estate), the FRC considers that there is scope for improvement of the disclosures provided by smaller companies.</p>	2023	Amber
<p>Law Commission law reform programme for 2021 and review of corporate criminal liability</p> <p>Affects: all companies</p>	<p>The Law Commission's consultation on its 14th programme of law reform closed on 31 July 2021, but the timetable for finalising the programme has been extended to no specified date (update). Specific ideas for law reform include (among other things):</p> <ul style="list-style-type: none"> ▪ Modernising the law of deeds for commercial parties, including assessing current electronic and paper execution requirements and understanding difficulties in executing deeds particularly in the context of the pandemic. ▪ Reviewing areas of legislation most affected by Brexit and potentially reforming certain areas of retained EU law. <p>On 10 June 2022, the Law Commission published a review of corporate criminal liability detailing options for reforming how corporations are convicted of criminal offences. The Government will now review. For further detail, see UK REIT Horizon Scanner Q3 2022.</p>	Ongoing	Green
<p>Stamp tax reform</p> <p>Affects: all companies with shares</p>	<p>On 21 July 2021, the government published its response to its consultation 'Modernisation of Stamp Taxes on Shares Framework' which looked at the principles and design of a new stamp duty and stamp duty reserve tax regime. The government now plans to explore the identified key priority areas for change, including a single self-assessed tax on shares, territorial scope and digitisation. To this end, on 27 April 2023, HMRC published Policy Paper: Tax administration and maintenance summary - Spring 2023 which included a consultation on proposals to modernise and rationalise the framework for Stamp Taxes on Shares. This consultation seeks views on proposals to ensure that any new framework will meet its objectives for a simple, clear and efficient tax system, and closes on 22 June 2023.</p>	Ongoing	Green

General corporate (continued)

Looking back

Issues	Status	Key Timing	Impact
Companies House Direct and WebCheck closure Affects: all companies	On 30 March 2023, Companies House announced that its Companies House Direct and WebCheck services will close on 30 November 2023 (originally scheduled to close in 2021). Users are instead directed to the Find and update company information service , which has replaced the majority of the functionality provided by Companies House Direct and WebCheck.	30 November 2023	Amber
Execution of documents Affects: all companies	In March 2023, the Industry Working Group on Electronic Execution of Documents published its final report . It considers the challenges arising from the use of electronic signatures in cross-border transactions and how best to use electronic signatures to optimise their benefits when set against the risk of fraud. It also sets out further recommendations for reform, which include introducing a set of minimum standards to bolster the integrity of, and public confidence in, the e-signing experience and process, and review of the law relating to deeds, in particular the formalities surrounding execution.	Ongoing	Amber
Government: new Department for Business and Trade	On 7 February 2023, the Prime Minister's Office announced the creation of four new government departments (press release and policy papers). These include a new Department for Business and Trade, Department for Energy Security and Net Zero (see Section 6, ESG), Department for Science, Innovation and Technology and a 'refocused' Department for Culture, Media and Sport. In practice, this means that BEIS is being disbanded, with its responsibilities split (as appropriate) between the new departments. The Department for International Trade is similarly affected.	Ongoing	Green
Digital securities Affects: potentially all companies	On 9 February 2023, the UK Jurisdiction Taskforce published Legal Statement: Issuance and transfer of digital securities under English private law which considers whether equity, debt and other securities can be validly issued and transferred under English law using blockchain or distributed ledger technology (DLT) systems. In short, it concludes that English law can accommodate digital bonds circulated on a public blockchain, although digital equity securities are a greater challenge because of the certification, registration and share transfers requirements under the Companies Act 2006. The Taskforce considers that it would likely be unfeasible to use a fully decentralised blockchain as a register of members under the current law because the company would not have sufficient control over it to comply with its statutory maintenance obligations. However, the Taskforce sees no objection in principle to DLT-based share transfers, provided that the system is designed to emit electronic transfer forms capable of submission to HMRC.	Ongoing	Green
Corporate reporting: FRC Lab project on materiality in corporate reporting Affects: potentially all companies preparing reports	On 18 October 2022, the FRC Lab issued a call for participants in a new project to understand how companies develop, assess and use materiality in their reporting, and to consider how enhancements to disclosure about materiality processes might assist investors. The project is expected to cover both financial and non-financial reporting. The Lab expects to publish its findings in 2023.	Ongoing but expected 2023	Green

General corporate (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Corporate governance: Investment Association Shareholder Priorities for 2023</p> <p>Affects: mainly listed companies</p>	<p>On 13 February 2023, the Investment Association published its Shareholder Priorities for 2023. IVIS will monitor companies with year-ends starting on or after 31 December 2022 in relation to the priorities, which include those set out below.</p> <ul style="list-style-type: none"> • Climate change: IVIS will continue to amber top companies that do not make disclosures against the TCFD framework. • Accounting for climate change: IVIS will continue to monitor whether companies have made a statement that the directors had considered the relevance of climate and transition risks associated with the transition to net-zero, when preparing and signing off on the company accounts. • Audit quality: IVIS intends to separate the existing question into three parts to enable companies to provide targeted disclosures on: how the Audit Committee has assessed the quality of the audit; how the auditor has demonstrated professional scepticism; and how the auditor has challenged management's assumptions where necessary. • Diversity: IVIS will increase its gender diversity targets by 2% and red top FTSE 350 companies where women represent 35% or less of the board or 30% or less of the executive committee and their direct reports. It will continue to red top FTSE Small Cap companies where women represent 25% or less of the board or 25% or less of the executive committee. It will also assess whether companies are meeting the new Listing Rule requirement to disclose on a comply or explain basis whether one of the chair, SID, CEO or finance director is held by a female, but will not colour top at this stage. IVIS also will continue to red top FTSE 100 companies that have not met the Parker Review target of one director from a minority ethnic group, and amber top FTSE 250 companies that do not disclose either the ethnic diversity of their board or a credible plan to achieve the Review's targets by 2024 (see also Section 6, ESG). • Stakeholder engagement: IVIS will monitor and highlight areas of the annual report which reflect engagement with stakeholders on the cost-of-living crisis. <p>In general, the IA notes that the challenging macro-economic environment means that now more than ever there is a need for good governance including experienced non-executive directors on the Board, with the right information and ability to make the best long-term decisions. It also encourages companies to report against the Taskforce on Nature-related Financial Disclosures (see section 6, ESG).</p>	<p>2023</p>	<p>Red</p>
<p>Corporate governance: Investment Association Share Capital Management Guidelines</p> <p>Affects: mainly listed companies</p>	<p>In February 2023, the Investment Association published a new version of its Share Capital Management Guidelines. The guidelines, among other things, set out expectations where companies seek shareholder authorities for the general allotment of new shares and the disapplication of pre-emption rights. They have been revised in line with certain recommendations of the UK Secondary Capital Raising Review, in particular to provide that members will regard as routine an authority to allot up to two-thirds of the existing issued share capital, and any amount in excess of one-third of existing issued shares should be applied to all forms of fully pre-emptive offers (not just rights issues as was previously the case). The guidelines have also been updated to support the new Pre-Emption Group's Statement Of Principles which allows annual authorities of up to 20% of the issued share capital and an additional 4% for a follow-on offer, and to recognise that capital hungry companies may have reason for raising larger amounts of equity capital.</p>	<p>2023</p>	<p>Red</p>

General corporate (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Corporate governance: PLSA publishes 2023 Stewardship and Voting Guidelines</p> <p>Affects: listed companies</p>	<p>On 30 March 2023, the Pensions and Lifetime Savings Association published its 2023 Stewardship and Voting Guidelines providing practical guidance for pension schemes considering how to exercise their voting rights on key issues of concern during the 2023 AGM season.</p> <p>Changes to the 2022 version include the below.</p> <ul style="list-style-type: none"> • Virtual AGMs: PLSA acknowledges there is a case for virtual meetings in exceptional circumstances but otherwise believes AGMs should allow for in person attendance. It would therefore not support permanent virtual AGMs. • Chair appointment: shareholders must consider board diversity when assessing the suitability of a new Chair. • Board composition and diversity: investors should consider voting against the re-election of the Chair and Nomination Committee Chair if the board consistently fails to move towards the PLSA recommendations of good company behaviour regarding board diversity or shows a lack of effort to do so, or the board fails to move towards the latest FCA diversity requirements (see section 6, ESG) or satisfactorily explain such non-compliance. Investors should vote against the re-election of a director if there is no clear evidence that diversity is being sufficiently considered by the board, or where previously committed timescales are not being met. • Remuneration: PLSA calls on companies to exercise restraint in executive pay given the current economic situation. • Climate change: PLSA has added to its list of questions investors should ask when deciding whether to support a particular climate-related resolution. • Workforce: the 2023 version includes a new section setting out the PLSA's expectations regarding matters such as workplace health, wellbeing, modern slavery issues and DEI, specifying the situations where investors should consider voting against the approval of the annual report and accounts or the re-election of a relevant director e.g. where companies identified as highly exposed to modern slavery risks fail to demonstrate adequate risk management and a willingness to change their approach. 	<p>2023</p>	<p>Red</p>
<p>Audit and corporate governance: major reforms to audit and corporate governance systems</p> <p>Affects: all companies with an audit committee</p>	<p>The FRC has published a report setting out what makes a good environment for auditor scepticism and challenge. It includes a section on audit committees, outlining the features of a strong audit committee, and the role it plays in the audit from the planning stage through to completion. It has also launched an Audit & Assurance Sandbox, which aims to provide a confidential space for relevant parties to discuss ideas and technical issues in audit and assurance policy areas.</p> <p>The FRC is also inviting Audit Committee Chairs to attend quarterly online meetings which will cover a range of topics relevant to the work of Audit Committee Chairs', and during which the FRC will seek views to help contribute to different projects and consultations run by the FRC. Contact stakeholderengagement@frc.org.uk if interested in participating.</p>	<p>Ongoing</p>	<p>Amber</p>

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3 | Financial regulatory

Financial regulatory

Key developments in Q2 2023

- Financial Services and Markets Bill receives Royal Assent
- UK government and European Commission sign MoU on regulatory co-operation on financial services
- Updates on implementation of new Consumer Duty
- FCA publishes 2023/2024 Business Plan
- Update on review of the UK PRIIPs regime
- ESAs issue consolidated Q&As on the Regulation on PRIIPs KID and ESMA publishes updated Q&As on application of AIFMD

Issues	Status	Key Timing	Impact
<p>Financial Services and Markets Bill receives Royal Assent</p> <p>Affects: REIT managers, REIT advisers</p>	<p>On 29 June 2023, the Financial Services and Markets Bill 2022-23 (FSM Bill) received Royal Assent.</p> <p>This follows a debate held in the House of Lords on 27 June 2023, in which it approved amendments made to the FSM Bill by the House of Commons on 26 June 2023. A revised version of the FSM Bill was published by Parliament on 20 June 2023. This incorporates amendments that were made to the Bill in the report stage. The Commons Disagreement and Reason document, which was published on 26 June 2023, sets out the amendments that were rejected by the House of Commons and amendments that were proposed in lieu. The final text of the Act was published on legislation.gov.uk on 7 July 2023.</p>	Ongoing	Green
<p>UK government and European Commission sign MoU on regulatory co-operation on financial services</p> <p>Affects: REIT managers, REIT advisers when selling into the EU</p>	<p>On 27 June 2023, HM Treasury announced that the UK government and the European Commission have signed a memorandum of understanding (MoU) on financial services, which sets out the plans for UK/EU voluntary regulatory co-operation on financial services issues.</p> <p>The MoU aims to preserve financial stability, market integrity and the protection of investors and consumers while also providing for bilateral exchanges of views and analysis on regulatory developments and other issues of common interest.</p> <p>A Joint EU-UK Financial Regulatory Forum (Forum) has also been established. The Forum's objectives include improving transparency, identifying potential cross-border implementation issues, and sharing knowledge to facilitate a common understanding of the EU and UK's regulatory frameworks.</p>	Ongoing	Green

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>Update on implementation of new Consumer Duty</p> <p>Affects: REIT managers, REIT advisers</p>	<p>FCA highlights key questions for firms to consider when implementing the Consumer Duty</p> <p>On 28 June 2023, the FCA published a press release setting out ten questions for firms to ask themselves in order to identify and remedy gaps and areas for improvement in their implementation of the Consumer Duty. The Consumer Duty takes effect on 31 July 2023 for new and existing products and services that are open for sale or renewal. The FCA expects Boards to have clear oversight of implementation plans relating to the Duty and also expects any potential gaps or weaknesses in the firm's compliance to have been identified and remediation plans to have been developed. In addition, the FCA published the results of a survey sent to some firms in Spring 2023. These show that most firms in the sectors surveyed believe they are on track to fully implement the Duty on time, but some firms have more to do to meet the deadline. If a firm believes it will be in significant breach of the Duty when it comes into force, it should inform the FCA. If a firm is struggling to complete all the work required before the deadline, it should prioritise action that will most improve consumer outcomes and reduce the risks of harm.</p> <p>FCA's review of fair value assessment frameworks</p> <p>On 10 May 2023, the FCA published a webpage detailing the findings following its review of firms' fair value assessment frameworks under the Consumer Duty. Under the new Consumer Duty firms will need to deliver and assess four outcomes, including price and value. Firms will need to undertake fair value assessments in order to show the price a consumer pays for a product or service is reasonable compared to the overall benefits they can expect to receive.</p> <p>At the start of 2023, the FCA reviewed 14 firms' fair value assessment frameworks. While the FCA notes that the sample was not representative, it states that many of the findings will be relevant to the wider population of regulated firms. It has identified four areas for further consideration by firms:</p> <ul style="list-style-type: none"> • Collecting and monitoring evidence that demonstrates that products and services represent fair value. • Summarising and presenting fair value assessments in a way that enables decision-makers to effectively discuss whether the product or service represents fair value. • Ensuring clear oversight and accountability of the necessary remedial actions if products and services are found to not provide fair value. • Where relevant, ensuring sufficient analysis of the distribution of outcomes across groups of consumers in the target market, beyond broad averages, to demonstrate how each group receives fair value. <p>The FCA will continue to monitor firms' approaches to ensuring customers receive fair value. This will include future reviews of firms' fair value assessments of specific products and activities.</p> <p>AIC's industry guidance on Consumer Duty: The AIC has published guidance on how firms should approach the Consumer Duty (for Members only).</p>	<p>31 July 2023 and ongoing</p>	<p>Red</p>

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>FCA publishes 2023/2024 Business Plan</p> <p>Affects: REIT managers, REIT advisers</p>	<p>On 5 April 2023, the FCA published its 2023/24 Business Plan setting out its business priorities for the year ahead. The Business Plan sets out how the FCA will deliver on the second year of its three-year strategy, published in April 2022.</p> <p>The Business Plan details that the FCA plans to accelerate the following four areas of its work over the next 12 months through further investment and increased resources:</p> <ul style="list-style-type: none"> • Putting consumers' needs first – including additional resource to ensure the transition following the introduction of the Consumer Duty in July 2023 is smooth for both consumers and firms. • Preparing financial services for the future – including resource to prepare for the new Future Regulatory Framework, which will help support the UK's wider economic growth and international competitiveness. • Strengthening the UK's position in global wholesale markets – including further proposals to reform the listing regime to attract world leading firms and encourage competition. • Reducing and preventing financial crime – including looking for innovative ways of reducing and preventing financial crime. 	Ongoing	Green
<p>Update on review of the UK PRIIPs regime</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 11 July 2023, the government published its response to its consultation on repealing PRIIPs and replacing it with an alternative retail disclosure framework better suited to the needs of investors (see UK REIT Horizon Scanner for Q1 2023). The response confirms that the government intends to remove all PRIIPs firm facing retail disclosure requirements from legislation and ensure that the FCA can deliver a new UK retail disclosure regime which is both tailored and proportionate to the UK market. On a new FCA webpage published on 14 July 2023, which deals with the work required to repeal and replace retained EU law, the FCA confirmed that it is working with the government on the new regime. It has not yet indicated when it will publish its consultation paper.</p>	Ongoing	Green
<p>ESAs issue consolidated Q&As on the Regulation on PRIIPs KID</p> <p>Affects: REIT managers, REIT advisers when selling into the EU</p>	<p>On 18 May 2023, the Joint Committee of the European Supervisory Authorities (ESAs) published a set of consolidated Q&As (JC 2023 22) on the Regulation on key information document (KID) requirements for packaged retail and insurance-based investment products (PRIIPs) (1286/2014) (the PRIIPs Regulation) and related Delegated Acts. The consolidated Q&As combine responses:</p> <ul style="list-style-type: none"> • Given by the European Commission to questions requiring interpretation of EU Law according to Article 16b(5) of the ESA Regulations. • Produced by the ESAs relating to the practical application or implementation of the PRIIPs Regulation and the related Delegated Acts under Article 16b(1) of the ESA Regulations. <p>The Joint Committee of the ESAs last updated the Q&As on the PRIIPs Regulation in December 2022.</p>	Ongoing	Green
<p>ESMA publishes updated Q&As on application of AIFMD</p> <p>Affects: REIT managers, REIT advisers when selling into the EU</p>	<p>On 14 June 2023, ESMA published an updated version of its Q&As relating to the application of the Alternative Investment Fund Managers Directive (AIFMD).</p> <p>New Q&As have been added to section II on notifications of alternative investment funds, section IV on notification of alternative investment fund managers and section VII on calculation of leverage.</p>	Ongoing	Green

Financial regulatory (continued)

Looking back

Issues	Status	Key Timing	Impact
Regulatory Initiatives Grid Affects: REIT managers, REIT advisers	On 28 February 2023, the Financial Services Regulatory Initiatives Forum published the sixth edition of the Regulatory Initiatives Grid , which provides an outline of upcoming regulatory work. The next edition of the Grid will be published towards the end of 2023.	Ongoing	Green
Review of the Senior Managers & Certification Regime Affects: REIT managers, REIT advisers	On 30 March 2023, the government and the regulators launched their review of the Senior Managers & Certification Regime, as announced in the Edinburgh Reforms in December 2022. A joint Discussion Paper (DP23/3) from the FCA and PRA looks at the effectiveness, scope and proportionality of the regime and should be read together with HMT's Call for Evidence , which looks at the legislative aspects of the regime. The Discussion Paper and Call for Evidence have now closed for comments . For further details, please see our special feature article .	Q2 2023	Amber
FCA Discussion Paper on updating and improving UK asset management regime Affects: REITs, REIT managers, REIT advisers	On 20 February 2023, the FCA published a Discussion Paper (DP23/2) on the UK asset management regime in light of the Future Regulatory Framework and the government's proposal that the FCA becomes responsible for retained EU laws that set requirements for firms. The FCA is seeking feedback on how to update and improve the current UK regime for asset managers: <ul style="list-style-type: none"> Chapters 3 and 4 ask if the FCA could make the structure of the regulatory regime for asset managers clearer and make it work better, for example, by simplifying or restructuring rules. Chapters 5 and 6 look at ways in which technology can lead to change, focusing on the relationship between fund managers, distributors and investors and considering the role of tokenisation. The Discussion Paper is now closed for comments . The FCA expects to publish a feedback statement later in 2023, which may be part of a Consultation Paper on some of the topics in the Discussion Paper.	Q2 2023	Amber
FCA portfolio letter to asset management firms Affects: REIT managers, REIT advisers	On 3 February 2023, the FCA published a portfolio letter setting out its supervision strategy for the asset management sector to help firms and CEOs mitigate harm to consumers and markets. Of particular relevance to the REIT industry are the sections on: <ul style="list-style-type: none"> Product governance ESG and sustainable investing Investment in operations and resilience Financial resilience. 	Ongoing	Amber

Financial regulatory (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Consumer Duty portfolio duty</p> <p>Affects: REIT managers, REIT advisers</p>	<p>On 3 February 2023, the FCA published a portfolio letter to firms in the asset management, custody and fund services and alternatives sectors, on how they should implement the new Consumer Duty even when they have an indirect relationship with the consumer (see Annex 1).</p> <p>Annex 2 flags the following key issues firms should look into:</p> <ul style="list-style-type: none"> ▪ How the Consumer Duty interacts with the FCA's existing rules. ▪ How distributors and manufacturers' firms need to ensure their products provide fair value. ▪ Examples of good and bad practice when implementing the Consumer Duty. ▪ Ensuring that the firms' appointed representatives comply with the Consumer Duty. 	Ongoing	Red
<p>Economic Crime Levy</p> <p>Affects: REIT managers, REIT advisers</p>	<p>On 9 March 2023, the FCA announced that from July 2023 it will collect an economic crime levy to fund the fight against economic crime. The levy will apply to businesses which were subject to the money laundering regulations between 6 April 2022 and 5 April 2023.</p> <p>It will appear on FCA invoices from July 2023 and be paid annually. The levy will be determined by a firm's UK revenue.</p> <p>All impacted firms were required to submit their data via a new Reg Data Report, FIN074, from 1 April to ensure they are charged the right amount.</p> <p>A failure to submit in time may result in a £250 administrative fee.</p>	Ongoing	Amber
<p>AIFMD triologue negotiations</p> <p>Affects: REITs and REIT managers when selling into the EU</p>	<p>On 28 March 2023, the Council of the EU published an information note containing a table comparing the negotiating positions taken by the European Commission, the Council of the EU and the European Parliament on the proposed Directive amending the Alternative Investment Fund Managers Directive.</p> <p>The note has been published as triologue negotiations on the legislation take place.</p>	Ongoing	Amber

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4 | Real estate, planning and construction

Real estate, planning and construction

Key developments in Q2 2023

- Registration of existing higher-risk buildings in occupation under the Building Safety Act (BSA) is required by 1 October 2023 in anticipation of the new regulatory regime for higher-risk buildings coming into effect.
- The Responsible Actors Scheme under the BSA, which is designed to prohibit certain developers who fail to sign the Government's Remediation Contract from carrying out major development in England, is expected to be launched in the summer of 2023.

Issues	Status	Key Timing	Impact
<p>Building Safety Act 2022</p> <p>Affects: Investors, owners and developers of higher risk buildings</p>	<p>The Building Safety Act (BSA) received Royal Assent on 28 April 2022.</p> <p>The BSA establishes the Building Safety Regulator with a remit to implement regulatory change to building regulation and control for higher-risk buildings in England, provides new accountability and duties across all buildings, and introduces competency standards and provisions to strengthen the construction products regulations. The new regulatory regime will see the introduction of a system of Gateways for the design and construction of higher-risk buildings under the supervision the Building Safety Regulator during planning, construction and operation. Higher-risk buildings in England are confirmed to be buildings of over 18 metres in height (or 7 storeys) and which contain two or more residential units, a care home or hospital. Secure residential institutions, hotels and military premises are excluded (see the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023). Care homes and hospitals are excluded from the definition of higher-risk buildings in occupation. Once a higher-risk building is completed there will be new statutory duties during the occupation phase, and it will be an offence to occupy a higher-risk building unless the building is registered with the Building Safety Regulator. The Welsh Government is given powers to vary the scope and application of the regime for buildings in Wales.</p> <p>Three Gateways are proposed. Planning Gateway 1 came into effect on 1 August 2001 (Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). Gateway 2 and Gateway 3 are intended to ensure that the Building Safety Regulator is satisfied of building regulation compliance prior to construction and occupation. Latest indications are that Gateway 2 and 3 will be introduced in October 2023 once the relevant secondary legislation is finalised with a six-month transitional period from the existing regime to the new regime. Timings are to be confirmed although Regulations are anticipated to be published before the summer recess.</p>	<p>October 2023</p>	<p>Red</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Building Safety Act 2022 (cont'd)</p> <p>Affects: Investors, owners and developers of higher risk buildings</p>	<p>Occupied higher-risk buildings: The Building Safety Regulator has announced that existing occupied higher-risk buildings will need to be registered with the Building Safety Regulator between April-October 2023. The Higher-risk Buildings and Review of decisions (England) Regulations 2023 and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 which set out the detail around registration are now in force. For these purposes care homes and hospitals are excluded from the new regulatory regime. Guidance published on 21 June 2023 setting out the criteria for being a higher-risk buildings in occupation which is designed to assist with the understanding of whether a building falls within the definition of a higher-risk building confirms that buildings used entirely as hotels are excluded and that serviced apartments do not fall within the meaning of hotels so will be considered higher-risk buildings if they meet the height or storeys threshold.</p> <p>The BSA introduces new limitation provisions which came into effect on 28 June 2022. The BSA extends the time limits to bring claims under section 1 of the Defective Premises Act 1972 by extending the limitation period from 6 to 30 years retrospectively; with a 15 year prospective limitation period. Separately the BSA introduces a new section 2A of the DPA with a limitation period of 15 years. Liability can be extended to associated persons under building liability orders. Extended limitation provisions of 15 years also apply for breaches of section 38 of the Building Act 1984 in relation to breach of duty under the Building Regulations. The intention was that section 38 of the Building Act 1984 (which has never been commenced) would be commenced on 28 June 2022, but details are still awaited.</p> <p>The BSA makes provision for the remediation of historical building safety defects. These provisions create statutory remedies requiring landlords and associated persons to pay for the remediation works for historical cladding and other safety defects in residential buildings of at least 5 storeys or 11 metres in height (Schedule 8 and sections 117-125 BSA), and set out the limited circumstances in which these remediation costs can be passed on to tenants. These leaseholder protection provisions are supported by a number of Regulations including the Building Safety (Leaseholder Protections) (England) Regulations 2022 (effective 20 July 2022) which prescribe circumstances in which landlords are to complete and send to the tenant a formal Landlord Certificate. Failure to provide the Landlord Certificate within the timescale will mean that landlords will be unable to pass on any remediation costs. Further amendment to the Regulations concerning the operation of these leaseholder protections is proposed: Draft Building Safety (Leaseholder Protections etc.) (England) (Amendment) Regulations 2023 (legislation.gov.uk)</p> <p>The Responsible Actors Scheme is expected to be launched in the summer of 2023 now that the Building Safety (Responsible Actors and Prohibitions) Regulations have been passed (3 July 2023). The Responsible Actors Scheme is designed to prohibit certain developers who fail to sign the Government's Remediation Contract from carrying out major development in England. Initially the Scheme will apply to large housebuilders and developers who have developed or refurbished residential 11m+ buildings over a 30 year period (5 April 1992 – 4 April 2022) which have life-critical fire-safety defects. Registered providers of social housing are excluded.</p> <p>See Developer remediation contract - GOV.UK (www.gov.uk) and Responsible Actors Scheme - GOV.UK (www.gov.uk)</p>	<p>June – July 2022</p> <p>July 2023</p>	<p>Red</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Economic Crime (Transparency and Enforcement) Act 2022</p> <p>Affects: Overseas owners of UK property</p>	<p>The Economic Crime (Transparency and Enforcement) Act 2022 (ECTEA) introduced a new Register of Overseas Entities at Companies House to identify the beneficial owners of overseas entities which own registered property. ECTEA came into force on 1st August 2022 (with provisions relating to property ownership and the Land Registry requirements taking effect on 5th September 2022). Also see section 2, General corporate.</p> <p>ECTEA requires any overseas entity which acquires or has acquired registered property in England and Wales since 1st January 1999 (and for Scotland, 8th December 2014) to register on the Register of Overseas Entities. Now the Transitional Period has passed if an overseas entity owns land in the United Kingdom, and has not registered it, it is committing a criminal offence and cannot sell, lease or charge its registered property.</p> <p>Once an overseas entity is registered on the Register of Overseas Entities, it must update the information on the register annually. It is important that this is done as the Land Registry will require the overseas entity to comply with its updating duty before a sale, new lease or charge of the land can be registered. See Register of Overseas Entities holding UK land.</p>	<p>Deadline for registration at Companies House: 31 January 2023.</p>	<p>Red</p>
<p>Building Safety Levy</p>	<p>A second consultation on the design and implementation of the Building Safety Levy has been opened: The Building Safety Levy: consultation. The key proposals are:</p> <ul style="list-style-type: none"> • The Levy will apply to all new residential buildings in England that require building control approval (regardless of height). • Whether Build-to-rent, purpose-built student accommodation and accommodation for older people are excluded will be determined post consultation. • Affordable homes and community buildings (including NHS facilities, children's homes and refuges) are expected to be excluded and there will be protections for smaller developments. • The rate of the Levy will be calculated on either a 'per unit' of residential dwelling or a 'per square metre' basis; and the Levy will vary depending on the geographic location to reflect land value and house prices. Differential rates may also apply for brownfield and greenfield developments. • The Levy will be paid by the developer clients. • The Levy is in addition to developers Building Safety Pledge to remediate their own buildings, and the Residential Property Developer Tax. <p>Building Safety Levy: a step closer (taylorwessing.com)</p>	<p>Consultation closes on 7 February 2023. Government Response awaited.</p>	<p>Red</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Renters Reform Bill</p> <p>Affects: Residential and mixed-use property owners, managers and investors</p>	<p>The Renters (Reform) Bill was introduced into Parliament on 17 May. Key proposals for change include:</p> <ul style="list-style-type: none"> • Simplifying letting structures: all tenancies to be rolling (monthly) periodic. ASTs abolished, along with fixed terms. There are limited exceptions, e.g. certain student accommodation, higher rentals (over £100,000), local authority tenancies and terms over 7 years. • Removing s21 evictions: the ability under s21 of the Housing Act 1988 to evict without proving fault will be scrapped. Landlords will only be able to evict on fault-based grounds and in 'reasonable circumstances' which are to be defined in the act. • Permitting pets: landlords cannot unreasonably refuse consent to keeping a pet (with suitable insurance). • Reforming possession grounds generally: notice periods will change, and grounds amended generally e.g. landlords will be able to sell or move in a close relation after initial 6 month period, but will need to wait 4 weeks (not 2) to evict on the grounds of rent arrears • Strengthening protections against rent rises: notice periods for rises will double to at least two months and statutory rent increase process likely to become more important (abolishing s.21 prevents landlords unable to agree a new rent from terminating and reletting). Tenants will be able to challenge increases in the First Tier Tribunal and there are administrative notice hurdles to market increases. • Improving PRS management: the Bill lays groundwork for regulations to make landlords join a redress scheme for tenant complaints and register with a public (landlord funded) Property Portal, so prospective tenants can view the letting histories of landlords and properties. Also a new Private Renters' Ombudsman whose powers and decisions will be binding on landlords. Membership will be mandatory and the Ombudsman will have powers to compel landlords to take remedial action or pay compensation. 	17 May 2023	Red
<p>Electronic Communications Code – Product Security and Telecommunications Act</p>	<p>In summary, the Act introduces:</p> <ul style="list-style-type: none"> • A new duty for operators to consider using Alternative Dispute Resolution to settle disputes before making a court application. Operators must make landowners aware that ADR is an available option. The courts will be required to take account of any unreasonable refusal to engage in ADR when awarding costs. • Limited rights for operators to upgrade and share equipment installed before the 2017 Code , provided there is no material impact on the owner or occupier of private land. In force 17 April 2023. • Amendments to the Landlord and Tenant Act 1954 to align the procedures more closely with Part 5 of the Code. This includes dealing with disputed unopposed renewal agreements or where operators are seeking to impose a new Code agreement where the main aim of that agreement is to confer Code rights. • A new right for operators in sole occupation under a previously expired Code agreement to seek a new agreement under Part 4 of the Code. • A new procedure for operators to quickly obtain Code rights over certain types of land, where a landowner fails to respond to repeated requests for access. <p>The measures will apply to all parties involved in requests and agreements relating to rights regulated by the Code. This will include telecommunications operators, infrastructure providers, landowners and occupiers, as well as professionals such as land agents and legal representatives.</p>	17 April 2023	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Levelling up and Regeneration Bill and Land Control</p> <p>Output from the Planning For the Future – White Paper</p> <p>Affects: investors and developers</p>	<p>The Levelling Up and Regeneration Bill promises to make fundamental changes to the current system of local government, planning, developer contributions and regeneration.</p> <p>The Bill is wide-ranging and includes:</p> <ul style="list-style-type: none"> • measures to tackle slow build out by developers (involving new development progress reports, financial penalties & refusal of further permissions); • a new permanent pavement licensing scheme; • discretionary powers for councils to apply a council tax premium of up to 100% on empty and second homes in their areas; and • a variety of changes to the planning regime. The latter, though much narrower than those originally envisaged by the ill-fated Planning Bill (which presaged this Bill), remain wide-reaching. <p>Refinements are expected before the Bill comes into law in 2023. Three key proposals to watch out for next year:</p> <ul style="list-style-type: none"> • A new Infrastructure Levy (IL) to replace the community infrastructure levy (CIL) in England (Mayoral CIL in London and CIL in Wales will remain), akin to a further tax on development. IL will be mandatory, and it will be based on a percentage of the final gross development value above a set threshold. It will apply to the development of new or existing buildings as well as to material changes of use, which means ‘permitted development’ will be within scope. Section 106 agreements will not be abolished but will only be used in specific circumstances. The new legislation is likely to be introduced in different areas at different times, to allow a ‘test and learn’ approach to IL regulations. • New powers for local authorities to conduct a compulsory rental auction of premises that have been vacant for at least 12 months in designated high streets or town centres. Local authorities will be able to contract as if they were the landlord of the premises (although owners will have a right of appeal). • New measures to increase transparency in land ownership and control, which will make it very hard to keep sensitive information out of the public domain. The express purpose of these measures is to make land ownership more transparent (for example, by collecting and publishing data on contractual arrangements used by developers to control land, such as rights of pre-emption, options, and conditional contracts) and to identify attempts to evade sanctions or the new ECTEA disclosure requirements. However, their ambit will be far more wide-reaching than the purpose suggests, potentially capturing all registered owners of UK land. Registration of transactions may be delayed as a result. 	<p>Commencement legislation awaited</p>	<p>Amber</p>

 TaylorWessing | **5 | Tax**

Tax

Key developments in Q2 2023

- Amendments to the 'three year development rule' have effect in relation to disposals of assets on or after 1 April 2023

Issues	Status	Key Timing	Impact
<p>Targeted changes to UK REITs rules as part of the wider review of the UK funds regime</p> <p>Affects: UK REITs</p>	<p>At Spring Budget 2023 the government confirmed a number of changes to the UK REITs regime that had been announced in December 2022 as part of its 'Edinburgh Reforms' to drive growth and competitiveness in the financial services sector, namely:</p> <ul style="list-style-type: none"> Removing the requirement for a REIT to own at least three properties in its property rental business where it holds a single commercial property worth at least £20 million. Amending the 'three-year development rule' that deems a disposal of property within three years of being significantly developed as being outside the property rental business, so that the valuation used when calculating what constitutes a significant development better reflects increases in property values and is not impacted by inflation. The valuation will be the highest of the fair value of the property (as determined in accordance with international accounting standards) on entry into the REIT regime, at the time of acquisition of the property, or at the beginning of the accounting period in which the development commenced. <p>Further improvements to the UK REITs regime were also announced at Spring Budget 2023:</p> <ul style="list-style-type: none"> The rules for deduction of tax from property income distributions (PIDs) paid to partnerships will be amended to allow a PID to be paid partly gross and partly with tax withheld in respect of partnerships where some partners are entitled to gross payment and some are not. The Genuine Diversity of Ownership (GDO) test that is used to assess widely held ownership will be amended so that where a collective investment scheme is part of 'multi-vehicle arrangements', the GDO condition can be satisfied by either the collective investment scheme in isolation or by the multi-vehicle arrangements taken as a whole. <p>Legislation to implement these changes is contained in Part 2 of Schedule 4 to the Spring Finance Bill (i.e. Finance (No 2) Bill 2022-23), the most recent version of which was published on 21 June 2023. The Bill is currently making its way through Parliament and is expected to receive Royal Assent before the summer recess.</p> <p>These proposals supplement the targeted changes to the UK REITs rules included in the Finance Act 2022 that came into effect on 1 April 2022 (see the 'Looking back' section below for further details).</p>	<p>Royal Assent of Spring Finance Bill 2023 – changes to the REITs rules announced or confirmed at Spring Budget 2023 (other than the 'three year development rule') take effect</p>	<p>Red</p>

Tax (continued)

Issues	Status	Key Timing	Impact
<p>Temporary new 100% and 50% first year capital allowances for plant and machinery expenditure</p> <p>Affects: REITs investing in certain capital assets</p>	<p>At Spring Budget 2023 the government announced replacements for the super-deduction and special rate first year allowance that ended on 31 March 2023. Legislation is contained in clause 7 of the Spring Finance Bill 2023 for two new temporary capital allowances for companies investing in qualifying new plant and machinery between 1 April 2023 and 31 March 2026:</p> <ul style="list-style-type: none"> ▪ Qualifying expenditure on main rate assets that would ordinarily qualify for 18% writing down allowances will be relieved by a 100% first year allowance ('full expensing'). ▪ Qualifying expenditure on special rate assets (including long-life assets and integral features) that would ordinarily qualify for 6% writing down allowances will be relieved by a 50% first year allowance. <p>The government has indicated that it will make this measure permanent 'as soon as it is economically responsible to do so'.</p> <p>Although income from a REIT's property rental business is not within the charge to UK tax, notional allowances will be taken into account in calculating its distributable profits, reducing the amount that the REITs are required to distribute to investors.</p>	<p>Applies to expenditure incurred between 1 April 2023 and 31 March 2026</p>	<p>Amber</p>

Tax (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Legislation for targeted changes to UK REITs rules</p> <p>Affects: UK REITs</p>	<p>The Finance Act 2022 (section 15 and schedule 3) contain targeted changes to the UK REITs regime to make the UK a more competitive location for holding real estate assets. In particular:</p> <ul style="list-style-type: none"> ▪ Removing the requirement for REIT shares to be admitted to trading on a recognised stock exchange in cases where certain types of institutional investor hold at least 70% of the ordinary share capital in the REIT. ▪ Amending the definition of an overseas equivalent of a UK REIT so that the overseas entity itself, rather than the overseas regime to which it is subject, needs to meet the equivalence test. ▪ Removing the 'holders of excessive rights' charge where PIDs are paid to investors entitled to gross payment. ▪ Amending the rules requiring at least 75% of a REIT's profits and assets to relate to property rental business (the 'balance of business test') to disregard non-rental profits arising because a REIT has to comply with certain planning obligations, and to ensure specified items are disregarded in all parts of the test. ▪ Introducing a new simplified balance of business gateway test. 	<p>Changes to the UK REITs rules included in the Finance Act 2022 took effect from 1 April 2022</p>	<p>Red</p>
<p>Sovereign immunity from direct taxation – consultation response</p> <p>Affects: sovereign investors in UK REITs</p>	<p>Following last year's consultation on sovereign immunity from direct taxation, the government announced at Spring Budget 2023 that there would be no change to the current exemption from UK tax for sovereign investors.</p> <p>It had been proposed that the sovereign immunity rules would be codified in order to provide greater certainty for sovereign investors, and the exemption would be targeted at UK source interest income. Profits from a UK property business, including PIDs arising from interests in a UK REIT, would therefore have been brought within the scope of UK tax.</p> <p>The government had also been re-examining whether sovereign immune investors such as sovereign wealth funds should continue to be 'qualifying investors' for the purposes of existing investment regimes such as the UK REITs regime.</p>		<p>Green</p>



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| 6 | ESG

UK REIT Horizon Scanner Q3 2023

ESG

Key developments in Q2 2023

- Law Society guidance for solicitors on climate change
- International Sustainability Standards Board publish global sustainability reporting standards
- European Commission published consultation on the first set of EU sustainability reporting standards
- ESMA publishes call for evidence on the integration of sustainability preferences in MiFID II suitability assessment and product governance arrangements
- European Commission publishes measures on improving the EU sustainable finance framework, including legislative proposals and approvals
- Network for Greening the Financial System issues results of survey on its climate scenarios, and publishes report on financial institutions' climate transition plans
- European Supervisory Authorities publish progress reports on greenwashing in the financial sector
- Joint Committee of the European Supervisory Authorities issue consolidated Q&As on the Sustainable Finance Disclosure Regulation
- ESMA speech on its role in enabling the transition to a low carbon economy published

Issues	Status	Key Timing	Impact
<p>Climate: Law Society guidance for solicitors on climate change</p> <p>Affects: all lawyers, including in-house lawyers</p>	<p>On 19 April 2023, the Law Society of England and Wales published climate change guidance for solicitors which includes information on:</p> <ul style="list-style-type: none"> • Greenwashing, both in the context of any statements a firm has made and any advice offered to clients. • How climate change physical risks and climate legal risks may be relevant to client legal advice. • Issues that may be relevant when considering the interplay of legal advice, climate change and solicitors' professional duties, and also considerations for the solicitor-client relationship in the context of climate change, including when accepting client instructions. <p>The Law Society will publish further sector-specific guidance in due course.</p>	Ongoing	Red

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Climate: ISSB publishes global sustainability reporting standards</p> <p>Affects: potentially listed companies at first, with scope for large private companies to follow</p>	<p>On 26 June 2023, the International Sustainability Standards Board published the first two IFRS Sustainability Disclosure Standards: IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information and IFRS S2 Climate-related Disclosures. The standards are broadly in line with the exposure drafts published by the ISSB in March 2022 (see previous editions of this UK REIT Horizon Scanner). The IFRS Foundation will take over the monitoring of the progress on companies' climate-related disclosures from the Task Force on Climate-related Financial Disclosures from 2024 (news story). The standards are accompanied by guidance for companies on the application of the requirements, and there is also industry-based guidance on implementing IFRS S2. Both standards include transitional provisions, and are effective for annual reporting periods beginning on or after 1 January 2024, with early application permitted as long as IFRS S1 or IFRS 2 is also applied.</p> <p>It is now for Individual jurisdictions to decide whether companies will be required to comply with the standards. The UK government intends to consult on a framework to adopt and endorse the ISSB's standards for use in the UK (notice), and the FCA intends to update its climate-related disclosure rules to reference the ISSB standards (news story).</p>	<p>Ongoing, but initially annual reporting periods beginning on or after 1 January 2024</p>	<p>Amber</p>
<p>Climate: Net Zero Council convened</p> <p>Affects: all businesses, in particular those operating in construction, manufacturing, retail, water and waste sectors</p>	<p>On 9 May 2023, the UK government convened a new Net Zero Council to drive forward industry's transition to net zero. The Council is co-chaired by Energy Minister Graham Stuart and Co-op Group chief executive Shirine Khoury-Haq. The key objectives of the Council are to:</p> <ul style="list-style-type: none"> • Ensure sectors and companies have a pathway to net zero, including looking at the barriers and connections across sectors. Construction, manufacturing, retail and water and waste were identified as priority sectors to support and focus on, alongside the university and R&D sectors. • Lead a systematic review of the financing challenges and the roles of government, industry and the financial sector in addressing them. • Identify key challenges facing SMEs in reducing their carbon footprints and supporting their transition. 	<p>Ongoing</p>	<p>Amber</p>
<p>Climate: Network for Greening the Financial System issues results of survey on its climate scenarios</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 9 June 2023, the Network for Greening the Financial System (NGFS) published a summary of the key findings from its first public feedback survey on climate scenarios. It also published a set of presentation slides on its findings. Climate scenario analysis provides a framework for exploring how climate risks may evolve in the future. The next version of the scenarios will be released by the end of 2023.</p> <p>The latest hypothetical scenarios were published by the NGFS in September 2022. The NGFS launched the survey in February 2023, and findings include that:</p> <ul style="list-style-type: none"> • Most respondents assess both transition and physical climate-related risks and their potential effects through key financial risks. • Respondents mainly use climate scenario analysis to assess how climate risks could affect their organisation or financial stability. 	<p>Ongoing</p>	<p>Green</p>

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Climate: government publishes updated Green Finance Strategy</p> <p>Affects: all companies</p>	<p>On 30 March 2023, the government published Mobilising Green Investment: Green Finance Strategy 2023, which updates its 2019 Green Finance Strategy. The updated strategy includes a timeline summarising the commitments and next steps in the period to 2024. Most of the measures dealt with in the updated strategy are not new, and in many cases consultations, or more detailed announcements, are awaited. However, inclusion in the strategy shows the government's ongoing intention to take measures forward.</p> <p>Key measures that include some new or important confirmed information are the government's plans for the following.</p> <ul style="list-style-type: none"> • ISSB standards: published on 26 June 2023 – see entry above. • Non-Financial Reporting Review: The strategy also indicated the government's plans to review the UK's non-financial reporting framework. This was launched on 24 May 2023 with a call for evidence - see section 2, General corporate. • Net zero transition plans: currently, the Transition Plan Taskforce (TPT) is consulting on a framework for the disclosure of transition plans. Once this is finalised, the government plans to consult on introducing requirements for the UK's largest companies to disclose net zero transition plans (if they have them) (expected Autumn/Winter 2023). The proposals for private companies will align closely with the FCA's requirements for listed companies to disclose transition plans, including the comply or explain basis. This review will also form part of the overarching review on non-financial reporting launched by the government on 24 May 2023. • UK green taxonomy: the government intends to consult on a UK green taxonomy which will guide investors as to which economic activities can be labelled as 'green' in Autumn 2023. Once the taxonomy is finalised, the government will expect companies to report on a voluntary basis for two reporting years, after which it will consider requiring mandatory disclosures. The government will also consider whether to develop a separate transition taxonomy or to include certain transitional activities within the main green taxonomy. • Stewardship: the government will review the regulatory framework for effective stewardship, including the operation of the UK Stewardship Code 2020 to ensure it explicitly reflects the need to take sustainability and the transition into account, in Q4 2023. The FRC has also published a consultation on the UK Corporate Governance Code (see section 2, General corporate). • Nature-related financial disclosures: the government will explore how to incorporate the framework from the Taskforce on Nature-related Financial Disclosures (TNFD) into UK policy and legislation. Version 4 of the beta framework was published in March 2023 and the final framework is expected in September 2023. The new framework is intended for use globally by corporates of all sizes. • Reporting on scope 3 greenhouse gas (GHG) emissions: the government intends to issue a call for evidence on reporting on scope 3 GHG emissions. See previous editions of the UK REIT Horizon Scanner, in particular UK REIT Horizon Scanner Q2 2023. • Regulating ESG ratings providers: see previous editions of the UK REIT Horizon Scanner for further details, and entry below. • Environmental Reporting Guidelines: the government will update these, including for Streamlined Energy and Carbon Reporting. 	Ongoing	Amber

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Nature: science based corporate targets and guidance</p> <p>Affects: all companies, in particular those with a high dependency on nature</p>	<p>On 24 May 2023, the Science Based Targets Network published the world's first science-based corporate targets for nature. The new targets provide guidance for companies to assess and prioritise their environmental impacts, and to prepare to set targets, beginning with freshwater and land, alongside climate targets through the Science Based Targets initiative.</p> <p>On 29 May 2023, the UN Environment Programme Finance Initiative published guidance for businesses and financial institutions on measuring business dependencies on nature. The guidance explains why it is important to measure business dependencies on nature, and sets out how to measure the key components of business dependencies on nature.</p>	Ongoing	Amber
<p>UK regulation of ESG data and rating providers</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 5 July 2023, the FCA's ESG Data and Ratings Code of Conduct Working Group (DRWG), supported by the International Regulatory Strategy Group (IRSG) and the International Capital Market Association (ICMA), launched a consultation on a draft voluntary Code of Conduct for ESG data and ratings providers. The consultation closes on 5 October 2023, and it is expected that the Code will be published at the end of 2023. The Code aims to foster a trusted, efficient and transparent market, by introducing clear standards for ESG ratings and data products providers and clarifying how such providers can interact with wider market participants.</p> <p>The FCA welcomes the Code (news story), acknowledging its important role in raising standards. HM Treasury and FCA will continue to work together to consider whether the regulatory perimeter should be extended to include ESG rating providers, following the close of the Treasury's consultation on 30 June 2023 (see entry above).</p> <p>Note that, on 13 June 2023, the European Commission published a legislative proposal that it has adopted for a Regulation on the transparency and integrity of ESG rating activities (COM(2023)314). The proposed Regulation specifies, in particular, that ESG rating providers based in the EU must be authorised and subsequently supervised by ESMA.</p>	Ongoing	Amber
<p>European Commission publishes measures on improving EU sustainable finance framework, including legislative proposals and approvals</p> <p>Affects: REIT managers, and REIT advisers when selling into the EU</p>	<p>On 13 June 2023, the European Commission published a package of measures to build on and strengthen the EU sustainable finance framework, including a legislative proposal that it has adopted for a Regulation on the transparency and integrity of ESG rating activities (COM(2023)314) and approval in principle of a draft Taxonomy Environmental Delegated Act and draft amendments to the Taxonomy Climate Delegated Act.</p>	Ongoing	Green

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Joint Committee of the European Supervisory Authorities issue consolidated Q&As on the Sustainable Finance Disclosure Regulation</p> <p>Affects: REIT managers, and REIT advisers when selling into the EU</p>	<p>On 18 May 2023, the Joint Committee of the European Supervisory Authorities (ESAs) published a set of consolidated questions and answers on the Sustainable Finance Disclosure Regulation (SFDR) and on Commission Delegated Regulation (EU) 2022/1288, which supplements the SFDR with regard to regulatory technical standards (RTS) on content and presentation of information (SFDR Delegated Regulation). The Q&A combines responses:</p> <ul style="list-style-type: none"> Given by the European Commission to questions requiring interpretation of EU law according to Article 16b(5) of the ESA Regulations. Produced by the ESAs relating to the practical application or implementation of the SFDR under Article 16b(1) of the ESA Regulations. <p>The Q&A published by the Joint Committee follows the European Commission's adoption of new and updated answers to ESAs' questions on the application of the SFDR in April 2023. The ESA Joint Committee published a previous set of Q&As on the SFDR Delegated Regulation in November 2022.</p>	Ongoing	Amber
<p>ESMA publishes call for evidence on the integration of sustainability preferences in MiFID II suitability assessment and product governance arrangements</p> <p>Affects: REIT managers, and REIT advisers when selling into the EU</p>	<p>On 16 June 2023, ESMA published a call for evidence on the integration of sustainability preferences in the suitability assessment and product governance arrangements under the MiFID II Directive. The deadline for responses is 15 September 2023. The call for evidence aims to enable ESMA to gain a better understanding of the implementation of sustainability factors into certain organisational requirements. It became a requirement for such sustainability factors to be implemented following revisions to the MiFID II Delegated Regulation ((EU) 2017/565) and the MiFID II Delegated Directive ((EU) 2017/593). ESMA also hopes to gain an understanding of investor reactions to the incorporation of sustainability factors within the services of investment advice and portfolio management. In the call for evidence, ESMA seeks views on firms' approaches to:</p> <ul style="list-style-type: none"> Collecting client's sustainability preferences and considering them as part of clients' suitability assessments. Specifying sustainability-related objectives for products as part of target market assessments. Explaining sustainable finance concepts to clients. 	Ongoing	Amber
<p>ESMA speech on its role in enabling the transition to a low carbon economy published</p> <p>Affects: REIT managers, REIT advisers when selling into the EU</p>	<p>On 5 May 2023, ESMA published a speech given by Natasha Cazenave, ESMA Executive Director, on ESMA's role in enabling the transition to a low carbon economy. The speech outlines ESMA's view that to deal with the risk of greenwashing certain criteria should be introduced when naming investment funds that claim to have sustainability characteristics or goals. ESMA argues that there is a need for enhanced investor protection in relation to investment funds that use terms in their name, such as 'climate change' and 'sustainable' that suggest an investment focus in companies that meet certain ESG standards.</p> <p>The speech also outlines ESMA's view that the SFDR framework remains complicated and hard to navigate for investors. ESMA argues there could be merit in discussions around whether labels for sustainable financial products would assist with savings being channelled according to investors' needs and preferences, which in turn would support an orderly transition to a low carbon economy.</p>	Ongoing	Green

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Climate: Network for Greening the Financial System publishes report on financial institutions' climate transition plans</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 31 May 2023, the Network for Greening the Financial System (NGFS) published their report on financial institutions' climate transition plans. The report also assesses the role of central banks and supervisors in relation to those plans. The report identifies six key findings, including that there are multiple definitions of transition plans, that there is merit in distinguishing transition planning (transition strategy) from a transition plan (transparency to a specific audience) and that transition plans could help micro-prudential authorities develop a forward-looking view of whether the risks resulting from an institution's transition strategy fit with its risk management framework.</p> <p>NGFS will now undertake phase 2 of its work. This will involve NGFS engaging with relevant international authorities and standard setters such as the FSB, BCBS, IAIS and IOSCO so that they can co-ordinate their work on transition plans and planning. NGFS will also carry out further work to advance the discussion on the relevance of transition plans and planning to micro-prudential authorities' mandates, supervisory toolkit and the overall prudential framework.</p>	Ongoing	Green
<p>Climate: Minimum energy efficiency level for rented property in England and Wales</p> <p>Affects: landlords of privately rented commercial or domestic property in England or Wales</p>	<p>Since April 2018, landlords of privately rented commercial or domestic property in England or Wales have not been able to grant a new tenancy unless their properties reach at least an Energy Performance Certificate (EPC) rating of E. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015). From 1 April 2023 every commercial property will need to meet the minimal level in order to continue to be let. See: The Private Rented Property minimum standard – landlord guidance documents</p> <p>There is an exemptions framework to cover certain circumstances, which requires the landlord to note the property on a National PRS Exemptions Register. A substandard Energy Performance Certificate (EPC) rating is currently F or G.</p>	The next key date is 1 April 2023	Red
<p>Climate: Non-domestic buildings minimum energy efficiency standards</p> <p>Affects: developers, owners and occupiers and the construction supply chain</p>	<p>The Energy White Paper confirmed the Government's proposed target for non-domestic buildings to achieve minimum energy efficiency standards and EPC rating of 'B' by 2030. The 2022 Autumn Statement contained a new commitment of funding for energy efficiency improvements and the Chancellor, Jeremy Hunt, set the country a new ambition announcing that, 'by 2030, we want to reduce energy consumption from buildings and industry by 15%'.</p> <p>Given the government's direction of travel, we expect it to implement proposals for MEES reforms to tighten the minimum energy efficiency standard for commercial properties to an EPC B rating by 1st April 2030 (possibly with a phased implementation requiring an EPC C rating by 2027). Many commercial property landlords and occupiers now have ESG policies which include energy efficiency targets, but it is likely they will need to do more to actively meet MEES requirements, particularly with the raising of the EPC rating from an E to a B rating. Landlords need to engage with tenants on improvement works and will want to consider whether it is appropriate to share the MEES compliance burden with them and if they are able to do so under existing leases.</p>	<p>Consultation closed 9 June 2021</p> <p>Response awaited.</p>	Amber

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Climate: Potential introduction of performance-based ratings system for large commercial and industrial buildings</p> <p>Affects: developers, owners and occupiers and the construction supply chain</p>	<p>A Consultation relating to the potential introduction of a performance-based ratings system for large commercial and industrial buildings in England and Wales closed on 9 June 2021. The Government is still analysing feedback but broadly since these buildings account for a third of UK building emissions there is growing appreciation that there is little correlation between the EPC rating and a building's actual energy performance. The scheme would first apply to commercial and industrial buildings above 1,000m² in England and Wales (although this will be reviewed as different sectors come on board), with mandatory disclosure of ratings by 2023-24.</p> <p>Headline notes:</p> <ul style="list-style-type: none"> What exactly such an operating rating should cover is uncertain (waste/water etc?) but no exemptions are proposed save for reasons related to national security. It is acknowledged that there is work to be done on the interaction between MEES and any new performance-based scheme, which could both complement and/or replace MEES. This might replace the need to generate an EPC on sale, for example. It is acknowledged that greater clarity is required for older (listed) and mixed use buildings, and the government recognises the need to split responsibility for compliance more clearly between landlord and tenant. <p>Conclusion – it is clear that building owners and occupiers must work to increasing standards in energy efficiency by the end of the decade as a minimum. It remains to be seen whether a new (additional) performance based rating will introduce unnecessary complexity, and whether it would simply be easier to leave building owners to comply with MEES. See: Consultation and MEES related one in the item above.</p>	<p>Consultation closed 9 June 2021</p> <p>Response awaited.</p>	<p>Amber</p>
<p>Climate: UK Net Zero Carbon Buildings Standard</p> <p>Affects: Investors, owners, managers and developers of residential, commercial and mixed use buildings</p>	<p>A cross-industry initiative aims to develop a UK Net Zero Carbon Buildings Standard to standardise the approach to the measurement and assessment of emissions from new and existing buildings. The Standard will set out the metrics and performance levels to determine and measure net carbon performance that must not be exceeded and minimum performance levels that must be exceeded if a building is to comply with the Standard.</p> <p>The Standard is intended to help developers, contractors, asset owners and the built industry as a whole to demonstrate that their building is Net Zero aligned.</p>	<p>End 2033</p>	<p>Amber</p>

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Climate: ESMA statement on sustainability disclosures in prospectuses</p> <p>Affects: entities preparing prospectuses under EU Prospectus Regulation</p>	<p>On 11 July 2023, ESMA published a public statement providing insight into the expected sustainability disclosures in prospectuses drawn up under the EU Prospectus Regulation. The areas addressed by the statement include expected ESG disclosures and consistency with non-financial reporting (see 'EU Corporate Sustainability Reporting Directive' below)</p>	Ongoing	Amber
<p>Climate: mandatory climate change reporting and related guidance</p> <p>Affects: listed investment entities (including REITs)</p>	<p>As noted in previous versions of the UK REIT Horizon Scanner, the Listing Rule requirements for premium and standard listed companies to make comply or explain disclosures in their annual reports against the TCFD recommendations do not apply to investment entities and shell companies, and so therefore exclude REITs. However, the FCA has created a climate-related financial disclosure regime for asset managers (among others) that is consistent with the TCFD recommendations, the rules of which are set out in an ESG sourcebook in the FCA Handbook. The FCA is of the view that it is more appropriate that listed investment entities (therefore including REITs) disclose in line with these new climate-related disclosure rules. The rules applied from 1 January 2022 for the largest in-scope firms, and from 1 January 2023 for smaller firms with AUM of £5 billion or more.</p> <p>Note that mandatory climate-related disclosure requirements for larger companies and LLPs under CA 2006 will be reviewed in 2023 (TCFD Taskforce Interim Report and Roadmap).</p>	1 January 2023	Red
<p>Corporate reporting: EU Corporate Sustainability Reporting Directive adopted</p> <p>Affects: large EU companies, non-EU companies that are listed on EU regulated markets, EU subsidiaries of non-EU companies and non-EU companies with 'substantial activity' in the EU market</p>	<p>On 16 December 2022, the EU Corporate Sustainability Reporting Directive (CSRD) was published in the Official Journal of the EU, entering into force in January 2023. Member states have 18 months to integrate its provisions into national laws. The CSRD extends the corporate reporting requirements set out in the Non-Financial Reporting Directive in relation to matters such as environmental rights, social rights, human rights and governance factors, as well as extending the scope of companies caught.</p> <p>The new requirements will apply to all large EU companies, and to all companies listed on EU regulated markets (including listed SMEs). These companies will also be responsible for assessing the information applicable to their subsidiaries. The requirements will also apply to non-EU companies which meet certain turnover thresholds in the EU and which have at least one subsidiary subject to the CSRD or branch in the EU exceeding certain thresholds. Further, if a non-in-scope company (EU or not) falls in the 'value chain' of an in-scope company, it might need to provide information to the in-scope company for it to meet its requirements under the Directive. It is intended that the application of the Directive will take place in stages.</p> <p>On 9 June 2023, the European Commission published a consultation on the first set of EU sustainability reporting standards (ESRS) against which companies within the scope of the CSRD will need to report. The consultation closes on 7 July 2023. EFRAG (formerly the European Financial Reporting Advisory Group) is working on the second set of draft ESRS.</p>	Ongoing, but first reporting obligations for large EU 'public interest entities' with EU listed securities take effect from 1 January 2024 for reporting in 2025 and from January 2028 for non-EU companies with significant business in the EU	Amber

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Supply chains: proposed EU Corporate Sustainability Due Diligence Directive and German Supply Chain Due Diligence Act</p> <p>Affects: large EU companies, smaller EU companies operating in high-impact sectors and non-EU companies with a substantial presence in the EU or which are part of an EU group or in the value chain of an in-scope company. Companies with a presence in Germany.</p>	<p>On 23 February 2022, the European Commission adopted a proposal for a Corporate Sustainability Due Diligence Directive (CSDDD) which will impose a substantive corporate duty for in-scope companies to perform due diligence on external harm resulting from adverse human rights and environmental impacts in the company's own operations, its subsidiaries and of established business relationships within a value chain. The new due diligence requirements will apply to</p> <ul style="list-style-type: none"> • EU companies: Group 1: all EU limited liability companies of substantial size and economic power (with 500+ employees and EUR 150 million+ in net turnover worldwide); and Group 2: other limited liability companies operating in defined high impact sectors, which do not meet both Group 1 thresholds, but have more than 250 employees and a net turnover of EUR 40 million worldwide (EUR 20 million generated in the high risk sector). • Non-EU companies active in the EU with turnover threshold aligned with Group 1 and 2, generated in the EU. <p>To comply with the due diligence duty, companies need to, amongst other things, integrate due diligence into all their corporate policies and have in place an annually updated specific due diligence policy containing: (a) a description of the company's approach to due diligence; (b) a code of conduct describing the rules and principles to be followed by the company; and (c) a description of the processes put in place to implement due diligence.</p> <p>The CSDDD proposal still has to be presented to the European Parliament and the Council for approval. However, as it will require policy and operational changes, and could potentially impact indirectly on non-EU companies within in-scope company value chains, some forward planning at the relevant time would be beneficial. Final plenary vote on 1 June.</p> <p>Also, the German Supply Chain Due Diligence Act came into force on 1 January 2023 which requires in-scope businesses to establish risk management systems to identify adverse human rights and environmental impacts in their supply chains. The obligations extend to include direct suppliers, and, in certain circumstances, its indirect suppliers. Therefore, it is possible that non-German businesses may be affected if they have a presence in Germany or because they are within the supply chain of an in-scope company.</p> <p>Many businesses already voluntarily undertake supply chain due diligence relevant to ESG issues. This is usually done in line with international reporting and due diligence "soft law" standards, such as the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. On 8 June 2023, the OECD updated its Guidelines for Multinational Enterprises on Responsible Business Conduct. One key amendment is expanded due diligence and disclosure recommendations, with an emphasis on risk-based due diligence and a recognition of the alignment between due diligence and disclosure in responsible business conduct.</p>	<p>Informal triologue negotiations to take place to try and reach a compromise agreement on the final text</p>	<p>Amber</p>

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Modern slavery: modern slavery statements</p> <p>Affects: large companies (with a turnover of £36 million or more)</p>	<p>On 10 May 2022, the Queen's Speech set out proposals for a new Modern Slavery Bill which would mandate the areas to be included in modern slavery statements, require organisations to publish their statements on a government-run registry, and introduce civil penalties for non-compliance. The aim of the Bill would be to strengthen the protection and support for victims of human trafficking and modern slavery and increase the accountability of companies to drive out modern slavery from their supply chains.</p> <p>Further, as part of the government's general review of the non-financial reporting framework (see Section 2, General corporate) it is seeking stakeholder views on modern slavery reporting.</p>	Ongoing	Amber
<p>Diversity and inclusion: gender and ethnicity pay reporting</p> <p>Affects: UK companies</p>	<p>In its policy paper 'Inclusive Britain: government response to the Commission on Race and Ethnic Disparities' (17 March 2022), the government confirmed that mandatory ethnicity pay gap reporting will not be introduced. However, in April 2023, it published guidance on voluntary ethnicity pay gap reporting and standards for ethnicity data which describe best practice when collecting, analysing and reporting ethnicity data. Further, as part of the government's general review of the non-financial reporting framework (see Section 2, General corporate) it is seeking stakeholder views on gender pay gap reporting.</p> <p>The Equal Pay Bill (a private members' bill) is still making its way through Parliament. Among other things, it widens gender pay gap reporting to include ethnicity pay gap reporting and lowers the reporting threshold to organisations with 100 or more employees (from 250).</p>	Ongoing	Amber
<p>Diversity and inclusion: diversity in the boardroom</p> <p>Affects: listed companies (including closed-end investment funds)</p>	<p>For financial years beginning on or after 1 April 2022, premium and standard listed UK and overseas companies (including closed-ended investment funds) have had to comply with new LR requirements in relation to the reporting of diversity and inclusion on company boards and in executive management. In-scope companies also need to comply with new DTR reporting requirements in relation to diversity policies. For further details, see previous editions of the UK REIT Horizon Scanner.</p> <p>On 20 March 2023, the FCA published Primary Market Bulletin 44 (for further details, see previous editions of the UK REIT Horizon Scanner), which addresses the above disclosure requirements, and sets out the FCA's expectations and supervisory strategy for these new rules.</p>	Accounting periods starting on or after 1 April 2022	Red

ESG (continued)

Issues	Status	Key Timing	Impact
<p>Governance/greenwashing: greenwashing from a governance perspective</p> <p>Affects: potentially all companies</p>	<p>On 3 May 2023, the Chartered Governance Institute UK & Ireland published Report: Tackling greenwashing from a governance perspective (available to members). The report places greenwashing in a governance context and covers:</p> <ul style="list-style-type: none"> • What are the different forms of greenwashing? • How is greenwashing a governance issue? • Why is greenwashing problematic? • What are the existing and upcoming laws and regulations about greenwashing? • What are the reputational, legal and financial risks for organisations which are accused of greenwashing? • How should governance professionals manage greenwashing? 	Ongoing	Green
<p>Greenwashing: European Supervisory Authorities publish progress reports on greenwashing in the financial sector</p> <p>Affects: REIT managers, REIT advisers when selling into the EU</p>	<p>On 1 June 2023, the European Supervisory Authorities (ESAs) published the following reports on greenwashing in the financial services sector:</p> <ul style="list-style-type: none"> • EBA's progress report on greenwashing monitoring and supervision. • EIOPA's progress report on greenwashing. • ESMA's progress report on greenwashing. <p>In the reports, the ESAs put forward a common high-level understanding of greenwashing applicable to market participants across their respective remits, identify high-risk areas within their respective sectors that are exposed to greenwashing and set out preliminary remediation actions which will be adjusted and completed where needed.</p> <p>Owing to the integrated nature of the financial system, the ESAs are working in a co-ordinated manner to address issues. The ESAs are expected to publish their final greenwashing reports in May 2024. The final reports will set out their final recommendations, including possible changes to the EU regulatory framework.</p>	Ongoing	Green

ESG (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Diversity and inclusion: diversity in the boardroom</p> <p>Affects: listed companies (including closed-end investment funds)</p>	<p>On 28 February 2023, FTSE Women Leaders published the second FTSE Women Leaders Review 2022 which looks at gender balance in FTSE leadership and, for the first time in 2022, the UK's 50 largest private companies . It aims to build on the work of the Hampton-Alexander Review (see previous editions of the UK REIT Horizon Scanner). The review notes that progress has been made, e.g. FTSE 350 companies meet the 40% target for women on boards three years ahead of the deadline, but that there is still progress to be made, e.g. there are too few women in top CEO, and Finance Director roles, given overall progress. The report includes a specific section on FTSE 350 Investment Trusts Women on Boards.</p> <p>On 13 March 2023, the Parker Review Committee published an update report on the ethnic diversity of FTSE 350 companies' boards (2023 Report). It also includes new targets for 2027, which extend beyond the FTSE 350 to large private companies. The initial Parker Review Committee report was published in 2017, in which various recommendations were made in to improve ethnic diversity in the UK's leading companies, including a target for all FTSE 100 boards to have at least one non-white member by 2021 and for FTSE 250 companies to follow suit by 2024. Adopting the recommendations is voluntary, but the Committee may revise that approach if there is insufficient uptake. The 2023 Report shows that, as at 31 December 2022, 96 FTSE 100 companies met the target of one director from a minority ethnic background on the board and that FTSE 250 companies are making progress towards the 'one by 2024' deadline. New targets include:</p> <ul style="list-style-type: none"> • Each FTSE 350 company to set a percentage target, by December 2023, for senior management positions that will be occupied by ethnic minority executives in December 2027. • 50 of the UK's largest private companies will be asked to provide ethnic diversity data from December 2023 and should aim to have at least one ethnic minority director on the main board by December 2027. Each company will also be asked to set a target for the percentage of ethnic minority executives within its senior management team. <p>The report also includes a section on investment companies which summarises that, on 31 December 2022, there were 85 investment companies in the FTSE 250, of which 69 provided sufficient voluntary information to the Parker Review team to be assess. Of these, 36 met the target which marks an improvement on the previous year.</p>	Ongoing	Red

ESG (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Governance/climate: ISS proxy voting guidelines on climate-related and sustainability factors</p> <p>Affects: listed companies</p>	<p>In January 2023, Institutional Shareholder Services published proxy voting guidelines to provide guidance to investors in global markets on climate-related and sustainability factors in their voting decisions. International Climate Proxy Voting Guidelines updates, and International Climate Proxy Voting Guidelines updates. In February 2023, the Investment Association published its Shareholder Priorities for 2023, and on 30 March 2023, the Pensions and Lifetime Savings Association published its 2023 Stewardship and Voting Guidelines (see section 2, General corporate), both of which also reflect ESG issues.</p>	Ongoing	Red
<p>Governance/climate: FRC updated statement of intent regarding ESG challenges</p> <p>Affects: larger companies, asset managers and asset owners</p>	<p>On 30 January 2023, the FRC published an updated Statement of Intent on ESG challenges. The statement provides an update on the actions the FRC has taken over the last 18 months to contribute to the evolution of reporting, assurance and governance of ESG matters, and notes that its ESG strategy will continue to develop along with the changing regulatory and reporting landscape. Key areas of focus over the coming year include the following.</p> <ul style="list-style-type: none"> • Reviewing of the UK Corporate Governance Code to recognise the growing importance of ESG reporting. • Developing guidance and best practice on the distribution and consumption of ESG data. • Helping companies to ensure they are reporting ESG information in a relevant and decision-useful way. • Updating the Guidance on the Strategic Report regarding changes in narrative reporting requirements, other changes to the existing non-financial reporting framework and any sustainability reporting arising from Sustainability Disclosure Requirements developments • Assessing how investors integrate material ESG issues into their investment management activities, as part of the annual assessment programme for signatories to the Stewardship Code. • Identifying PIEs with significant environmental risk, and monitoring statutory auditor training requirements. 	Ongoing during 2023	Amber
<p>Governance: corporate governance and stewardship mythbuster</p> <p>Affects: all companies</p>	<p>The FRC has published a corporate governance and stewardship mythbuster to dispel common misconceptions. It addresses several frequently asked questions, such as:</p> <ul style="list-style-type: none"> • What is corporate governance? • What do we mean by stewardship? • Does the Corporate Governance code give the FRC powers to enforce against Directors? 	Ongoing	Green
<p>Governance: FRC insight on AI, technology and governance</p> <p>Affects: all companies</p>	<p>On 23 March 2023, the FRC Lab published an insight into the impacts and considerations of AI and emerging technology on governance and related issues. It sets out the takeaways from a roundtable event it held in Manchester, in particular addressing three key questions:</p> <ul style="list-style-type: none"> • How does emerging technology challenge the current ways of thinking about governance? • How can regulators, professional bodies, companies, directors, auditors, and others best respond? • Where is more research needed, and how can the academic community better support business? 	Ongoing	Green

ESG (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Climate: Climate Financial Risk Forum: Session 3 Guides</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>The Climate Financial Risk Forum (CFRF) is a joint initiative of the PRA and the FCA. It aims to bring together senior financial sector representatives to share their experiences in managing climate-related risks and opportunities. Session 3 of the CFRF is due to conclude shortly. For each Session, the CFRF publishes guides to assist the financial sector develop its approach to climate-related financial risks and opportunities. The Session 3 guides focus on the transition to net zero, scenario analysis and climate disclosure, data and metrics:</p> <p><i>December 2022</i></p> <ul style="list-style-type: none"> ▪ Transition to Net Zero – Mobilising Investment into Climate Solutions: Phase 1 Report ▪ Transition to Net Zero – Disclosures: Managing Legal Risks ▪ Transition to Net Zero – A Carbon Budget Primer for Financial Institutions ▪ Scenario Analysis – Physical Risk Underwriting Guide ▪ Scenario Analysis – Scenario Analysis Guide for Banks ▪ Scenario Analysis – Scenario Analysis in Financial Firms ▪ Scenario Analysis – Climate Litigation Risk Chapter ▪ Disclosure, Data and Metrics – Industry Frameworks and Metrics in Relation to Green & Transition Finance <p><i>March 2023</i></p> <ul style="list-style-type: none"> ▪ Disclosure, Data and Metrics – CFRF Climate Disclosures Dashboard ▪ Disclosure, Data and Metrics – Webinar 1 – The limitations of portfolio climate data ▪ Disclosure, Data and Metrics – Webinar 2 - Forward-looking portfolio climate metrics ▪ Disclosure, Data and Metrics – Webinar 3 - Climate data coverage ▪ Disclosure, Data and Metrics – Supporting content for Webinars ▪ Scenario Analysis - Online climate scenario analysis narrative tool (updated version March 2023) ▪ Scenario Analysis - Asset Management Guide ▪ Scenario Analysis - Learning from the 2021/22 Climate Biennial Exploratory Scenario (CBES) 	<p>Ongoing</p>	<p>Amber</p>

ESG (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Climate: FCA Discussion Paper on Finance for positive sustainable change</p> <p>Affects: REIT managers, REIT advisers</p>	<p>On 10 February 2023, the FCA published a Discussion Paper (DP23/1) entitled 'Finance for positive sustainable change' to begin an industry-wide dialogue on sustainability-related governance, incentives and competence in regulated firms. The Discussion Paper includes 10 commissioned articles from experts and is now closed for comments. The FCA will use the feedback it receives to understand how it can help the financial services industry in reaching an economy wide transition to net zero.</p> <p>In addition, Sacha Sadan, FCA Director of ESG, has published a blog highlighting the importance of starting such discussions.</p>	Q2	Amber
<p>Climate: FCA update on its Consultation Paper on SDR and investment labels</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 29 March 2023, the FCA published an update on its Consultation Paper on Sustainable Disclosure Requirements (SDR) and investment labels, which closed on 25 January 2023 (see UK REIT Horizon Scanner Q1 2023 for more information on the Consultation Paper and the SDR in general).</p> <p>The FCA has received approximately 240 written responses and says there is broad support for the proposed regime and 'rich, constructive feedback on some of the detail'. In light of the significant response to the Consultation Paper, the FCA now plans to publish its Policy Statement in Q3 2023; the proposed go-live dates will be adjusted accordingly.</p> <p>As part of its follow-up work, the FCA will be looking at its approach to the marketing restrictions, refining some of the specific criteria for the investment labels, making clear how different products, asset classes and strategies can qualify for a label, including multi-asset and blended strategies, and clarifying that primary and secondary channels for achieving sustainability outcomes are not prescribed, and that it does not require independent verification of product categorisation to qualify for a label. The FCA concludes by noting its continued engagement with its Disclosures and Labels Advisory Group and other stakeholders.</p>	Q3 2023	Amber
<p>Climate: Publication of legislation incorporating nuclear and gas disclosures into SFDR RTS</p> <p>Affects: (For REITs being marketing into the EEA) REIT managers, REIT advisers</p>	<p>On 17 February 2023, Commission Delegated Regulation (EU) 2023/363 was published in the Official Journal of the EU. The Delegated Regulation amends the regulatory technical standards (RTS), which supplement the EU Sustainable Finance Disclosure Regulation, incorporating nuclear and gas disclosures into the RTS. It took effect on 20 February 2023.</p>	Ongoing	Amber



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Important note

This document is intended to give a general overview of the matters covered as they affect REITs listed on the Main Market of the London Stock Exchange and by its nature cannot be exhaustive. The information in this document is not intended to be, and should not be used as, a substitute for taking legal advice for any specific situation. Law and regulation are subject to change after the date this document is published. Links to publications and websites are included for convenience and no responsibility is accepted for the contents or accuracy of those documents or websites. With thanks to Knowledge Lawyers Claire Hawley, Daniel Hirschfield, Annabel Pyke, Lorraine Smith and Rona Westgate.

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