



TaylorWessing

UK REIT Horizon Scanner Q1 2022

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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 and tax¹ in England (including retained EU law²).

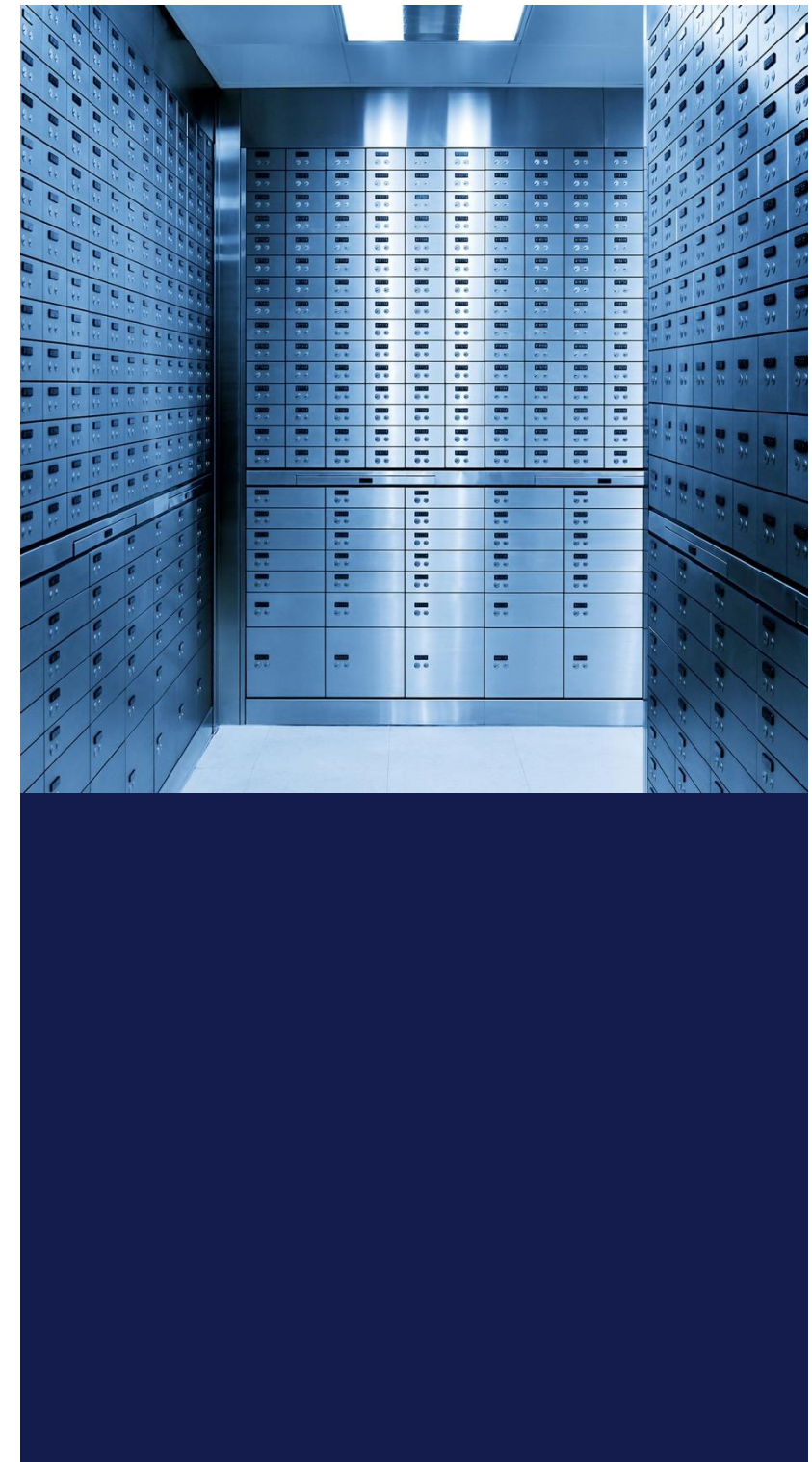
Issue/status/timing: New developments since our September 2021 edition are shown in **green text**.

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: 31 December 2022

- 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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Equity capital markets

Key developments in Q4 2021

- Changes to the Listing Rules relating to dual class share structures within the premium listing segment, minimum free float percentages and minimum market capitalisation came into force

Issues	Status	Key Timing	Impact
Brexit: general legislation Affects: listed companies	Alongside the Trade and Cooperation Agreement (in effect 30 December 2020) was a non-binding joint declaration on financial services regulatory cooperation. It contained a commitment for the UK and EU to agree a Memorandum of Understanding by March 2021 on the framework for cooperation in areas such as equivalence (agreed but not yet ratified). As things currently stand, 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.	Ongoing	Amber
COVID-19: AGMs Affects: large companies holding AGMs	Companies expecting to hold a physical AGM with large numbers of physical attendees (500 or more) may need to consider the requirements of The Health Protection (Coronavirus, Restrictions) (Entry to Venues and Events) (England) Regulations 2021 which came into force on 15 December 2021.	Ongoing	Amber
COVID-19: Glass Lewis executive remuneration guidance Affects: listed companies	In November 2021, Glass Lewis updated its guidance on executive compensation during the pandemic (first published in January 2021). It covers dividend policies, impacted share prices, employee actions and stakeholder perspectives. In short, the updated version removes specific references to fiscal years, and clarifies that it will apply throughout the course of the pandemic, particularly for companies and industries that continue to be affected. It is further clarified that when assessing a board's decisions on executive remuneration, Glass Lewis will expect, among other things, overall lower outcomes than pre-pandemic levels (rather than lower outcomes than in the previous year as stated in the original guidance) for all companies that continue to be affected by the crisis.	During the pandemic	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>COVID-19: FCA and FRC joint statement on temporary reliefs</p> <p>Affects: listed companies</p>	<p>On 27 January 2021, the FCA and FRC published a joint statement reminding listed companies of continuing temporary reliefs including an additional two months to publish annual financial reports (within six rather than four months of FYE) and an additional one month to publish half yearly financial reports (within four rather than three months of FYE) – this remains in place until the disruption abates and at least for financial periods ending before April 2021. The FCA and FRC will notify companies of the decision to terminate these provisions so there is time to plan for the change.</p>	During the pandemic	Amber
<p>European Single Electronic Format (ESEF) reporting</p> <p>Affects: Main Market and Specialist Funds Segment</p>	<p>For financial years beginning on or after 1 January 2021 (for publication from 1 January 2022), issuers subject to the reporting format obligations in DTR 4.1.14R are required to publish their annual reports in XHTML web browser format, and, if they prepare IFRS consolidated annual financial statements, they must also tag their financial statements in accordance with FCA approved taxonomies. For financial years starting on or after 1 January 2022, they must also tag the notes to financial statements. Reports must also be filed with the FCA's National Storage Mechanism.</p> <p>In December 2021, the FCA extended the rules on corporate reporting in machine-readable format to permit issuers to use a wider range of taxonomies when preparing annual financial reports (Handbook Notice).</p> <p>The AIC has updated its guidance regarding electronic reporting (available to members on the AIC website). Additionally, the FRC has published the results of a survey about how companies and service providers are preparing for ESEF reporting, and has provided a list of resources to help companies understand and implement the requirements. The FRC also wrote a letter, jointly with the FCA (dated November 2021), to Chairs of relevant issuers setting out expectations on the quality of reports in XHTML. On 12 October 2021, the FRC Lab published a report on applying Disclosure Guidance and DTR 4.1.14, and ESEF.</p> <p>The FRC Lab and the FCA will consider the quality and usability of the structured annual financial reports in the first year of mandatory adoption, and the FRC Lab intends to publish a review of best practice later in 2022. For more background information, see previous editions of the REIT Horizon Scanner.</p>	Financial years beginning on or after 1 January 2021 for publication from 1 January 2022	Amber
<p>FRC annual review of corporate reporting</p> <p>Affects: all companies, including listed companies</p>	<p>On 27 October 2021, the FRC published its annual review of corporate reporting for 2020/2021. This sets out the FRC's top ten areas where improvements to reporting are required in 2021/22. The FRC also published its year-end bulletin of key corporate reporting matters. See section 2, General corporate.</p>	Ongoing	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>European common enforcement priorities for 2021</p> <p>Affects: listed companies</p>	<p>On 29 October 2021, ESMA published its annual public statement on the priorities that EEA corporate reporting enforcers will consider when examining the 2021 annual financial reports of listed companies. This year's priorities include the impact of COVID-19 and climate-related matters.</p>	Ongoing	Green
<p>ESG: FRC annual review of corporate governance reporting</p> <p>Affects: listed companies</p>	<p>On 25 November 2021, the FRC published its annual review of corporate governance reporting, which sets out the key findings from its review of a sample of FTSE 350 and Small Cap companies and how they have reported during the year under the UK Corporate Governance Code. The FRC states that the expectations set out in its 2020 review were not met in key areas, including substantive disclosures on board appointments, succession planning and diversity. Further, companies were not adequately supporting boilerplate disclosures and declaratory statements with examples, and companies should more clearly describe how they apply the Code's principles and explain any departures from it.</p> <p>This follows FRC guidance (February 2021) on how companies should report against the 2018 UK Corporate Governance Code.</p>	Ongoing	Green
<p>ESG: FRC support for ESG reporting challenges</p> <p>Affects: listed companies</p>	<p>On 7 July 2021, the FRC published a statement of intent which identifies areas where there are issues with effective reporting of ESG information, and outlines the FRC's planned actions in this area. The FRC intends to develop Codes, standards, guidance and expectations, and will build a system that is forward-looking and fit for purpose.</p>	Ongoing	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>ESG: FCA consultation on board diversity and executive committees</p> <p>Affects: listed companies</p>	<p>On 28 July 2021, the FCA published a consultation (CP 21/24) on proposed amendments to the Listing Rules and the Disclosure Guidance and Transparency Rules in relation to diversity on boards and executive committees. The consultation closed on 22 October 2021. According to its strategy for ESG priorities (November 2021) the FCA intends to publish a policy statement in relation to this consultation (and its July 2021 discussion paper on diversity and inclusion) in Q1 2022. It was proposed in CP 21/24 that the new Listing Rule requirements would apply to accounting periods starting on or after 1 January 2022, so that reporting will start to be seen in annual financial reports published for that year in spring 2023.</p> <p>Proposed amendments include:</p> <ul style="list-style-type: none"> ▪ Changes to the LRs to require listed companies to publish annually: <ul style="list-style-type: none"> ▪ a 'comply or explain' statement on whether they have met various targets regarding gender and ethnic diversity on their boards. The proposed targets are not mandatory, but rather provide a positive benchmark for issuers to report against; ▪ data on the gender and ethnic diversity of their boards, senior board positions and most senior executive management. ▪ Inserting guidance into the LRs that companies may also wish to include in their annual financial reports other optional disclosures relating to board diversity. ▪ Amending the DTRs to require companies to ensure any existing disclosure on diversity policies addresses key board committees, and also wider aspects of diversity such as ethnicity, sexual orientation, disability and socio-economic background. ▪ Adding guidance to the DTRs that companies may include numerical data on the diversity of their board and committees. <p>The proposed LR requirements would apply to premium and standard listed UK and overseas companies, while the DTR changes apply to companies with securities traded on UK regulated markets (e.g. LSE Main Market).</p> <p>Further, on 1 November 2021, the government announced its support for a new five-year independent review to monitor the representation of women among leaders of FTSE 350 companies, focusing not just on board membership but also on senior leadership roles.</p>	<p>Accounting periods starting on or after 1 January 2022</p>	<p>Red</p>
<p>ESG: FCA climate change adaption report</p> <p>Affects: listed companies</p>	<p>On 28 October 2021, the FCA published its first climate change adaptation report setting out its assessment of how the financial services industry and listed companies are adapting to climate change. In particular, the report sets out principles for net zero commitments for listed companies to consider, including that commitments and targets should be appropriate to companies' business models and supported by suitable resourcing and governance arrangements, and that they should also be realistic and feasible. It also mentioned that companies should set targets to measure progress against commitments.</p> <p>(See also our comments on this as regards asset managers in section 3, Financial regulatory.)</p>	<p>Ongoing</p>	<p>Amber</p>

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>ESG: new mandatory climate-change reporting and related guidance</p> <p>Affects: premium and standard listed companies (excluding investment entities and shell companies), and asset managers</p> <p>(Note: although REITs as investment entities are not caught by the Policy Statement 21/23 changes to the Listing Rules, this and related publications are covered opposite to give context for developments in climate-related financial disclosure more generally, including the asset manager disclosure rules in Policy Statement 21/24.)</p>	<p>On 17 December 2021, the Listing Rule requirements for premium listed companies to make comply or explain disclosures in their annual reports against the Task Force on Climate-related Financial Disclosures' (TCFD) recommendations were extended to standard listed companies (excluding investment entities and shell companies) in new LR 14.3.27 R for accounting periods beginning on or after 1 January 2022 (Policy Statement 21/23). THIS DOES NOT APPLY TO REITs AS INVESTMENT ENTITIES but is included here for context. The related Technical Note (included as an annex to Policy Statement 21/23) on ESG reporting, covering disclosures under the Listing Rules, DTRs, UK MAR and the UK Prospectus Regulation, has also been updated to reflect this change. See section 2, General corporate for proposals for mandatory TCFD for a wider range of organisations.</p> <p>The new LR for standard issuers is accompanied by guidance to assist companies in determining if disclosures comply with the TCFD recommendations. This incorporates references to the TCFD's new guidance on metrics, targets and transition plans and updated implementation guidance (which includes a section aimed at asset managers) on its recommendations, both published in October 2021.</p> <p>Also on 17 December 2021, the FCA published Policy Statement 21/24 which introduces a new ESG Sourcebook to the FCA Handbook containing rules and guidance for asset managers (among others) to make disclosures consistent with the TCFD's recommendations. The rules apply from 1 January 2022 for the largest in-scope firms, and one year later for smaller firms above the £5 billion exemption threshold. The first public disclosures will need to be made by 30 June 2023. (See section 3, Financial regulatory.) In its Policy Statement 21/23 referred to above, the FCA explained the exclusion of investment entities saying it remained of the view that it would be more appropriate for listed investment entities (therefore including REITs) to disclose in line with these new climate-related disclosure rules for asset managers.</p> <p>In October 2021, the TCFD published its 2021 Status Report setting out developments in TCFD recommendation aligned disclosures since its 2020 review.</p> <p>On 28 October 2021, the FRC Lab published a report containing practical guidance to help premium listed companies comply with their TCFD reporting obligations. The FRC has also published: Reporting Framework Snapshots: Taskforce on Climate-related Financial Disclosure and Climate Scenario Analysis: Current Practice and Disclosure Trends: report.</p> <p>On 15 November 2021, the FCA published Primary Market Bulletin No 26 in which it provides further details on its disclosure expectations and supervisory strategy in relation to the new TCFD aligned climate-related disclosure requirements for listed companies.</p> <p>On 20 October 2021, the LSE published guidance for London-listed companies on the integration of climate-related disclosures in their financial reporting and on TCFD implementation. The LSE has also introduced Climate Governance Scores which is a confidential resource for listed companies, accessible via the issuer services platform, designed to help companies understand the key climate metrics for investors, identify areas for improvement and assess their performance against industry peers.</p>	<p>Financial years beginning on or after 1 January 2022</p>	<p>Amber</p>

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Corporate governance: remuneration, proxy voting and ESG guidelines</p> <p>Affects: listed companies</p>	<p>On 16 November 2021, Glass Lewis published its 2022 ESG Initiatives: Policy Guidelines and 2022 UK Proxy Voting Policy Guidelines. The latter set out Glass Lewis' approach to, e.g., directors' appointments and remuneration, boards and ESG issues, and the former focus on shareholder rights to propose certain ESG-related resolutions at general meetings.</p> <p>On 18 November 2021, the Investment Association published its 2022 Principles of Remuneration which outline its members' expectations in relation to executive pay. It also published a letter to FTSE 350 remuneration committee chairs, setting out key changes in the 2022 Principles and areas of focus for the forthcoming annual general meeting season.</p> <p>On 7 December 2021, Institutional Shareholder Services announced the publication of its Benchmark Policy Updates for 2022 which will apply for shareholder meetings taking place on or after 1 February 2022.</p>	2022	Amber
<p>Corporate governance: independent board evaluations</p> <p>Affects: listed companies</p>	<p>On 20 January 2021, the Chartered Governance Institute published the findings of its review and report on the effectiveness of independent board evaluation in the UK listed sector (following its 2019 consultation). Recommendations included:</p> <ul style="list-style-type: none"> ▪ a voluntary code of practice for providers of performance reviews to FTSE 350 companies; ▪ a set of voluntary good practice principles for listed companies on selecting external reviewers and how reviews will be carried out; ▪ guidance for listed companies reporting on annual board performance under requirements of the UK Corporate Governance Code; and ▪ assessment by the FRC of board performance review practice and reporting as part of its UK Corporate Governance Code monitoring. <p>The Institute has published drafts of the Code of Practice for board reviewers, Principles of Good Practice for listed companies and Guidance on Reporting on Board Performance Reviews under the UK Corporate Governance Code. A government response is awaited.</p>	Ongoing	Amber
<p>Corporate governance: Investment Association: distribution policies</p> <p>Affects: listed companies</p>	<p>In 2019, the Investment Association reported on shareholder votes on dividend distributions in listed companies. It will establish a working group to develop best practice guidance on distribution policies and make recommendations to government on whether a shareholder vote on such policy and/or on yearly distributions should be mandatory. An update is awaited.</p>	Ongoing	Green
<p>Consultation on new class of trading venue for smaller SMEs</p> <p>Affects: SMEs</p>	<p>On 1 July 2021, HM Treasury published a consultation on the UK's regime for wholesale capital markets. The deadline for responses was 24 September 2021. Regarding SME markets, the government wants to explore a new class of trading venue with a reduced regulatory framework tailored for smaller SMEs. It envisages this would require amendments to the Market Abuse Regulation, a new offer document regime, and the creation of eligibility criteria for a smaller subset of SMEs within the current MiFID II definition.</p>	Ongoing	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
FRC thematic reviews Affects: listed companies	The FRC has been carrying out thematic reviews of corporate reporting since 2020. The recent reviews include: listed company interim reports; streamlined energy and carbon reporting; financial reporting effects of COVID-19, viability and going concern disclosures, alternative performance measures and disclosures in relation to IAS 37 'Provisions, Contingent Liabilities and Contingent Assets' . The reviews generally highlight where reporting could be improved, and provide guidance and best practice examples of relevant disclosures as well as setting out the FRC's disclosure expectations. They are set out in the following entries in this scanner.	Ongoing	Amber
Interim reporting: FRC thematic review Affects: listed companies	On 18 May 2021, the FRC reported the findings from its thematic review of interim reporting. In general, the FRC was pleased with the quality of the interim reports reviewed (20 listed companies), but key disclosure expectations for 2021 interim reports include: <ul style="list-style-type: none"> ensuring that management commentaries detail important events that have occurred during the first six months of the financial year, and their impact on the financial statements; providing a comprehensive update of the principal risks and uncertainties for the remaining six months of the financial year; make sure Alternative Performance Measures are explained, reconciled to IFRS measures and not given undue prominence; giving going concern disclosures that explain the basis of any significant judgements, including any associated material uncertainties, and the matters considered when confirming the preparation of the financial statements on a going concern basis; detailing changes to key judgements and estimates with reasons that enable users to understand management's views about the future, and their impact on the interim financial statements; explaining in sufficient detail events and transactions which materially impact financial position and performance; and focusing on providing material disclosures that are clear and concise. 	Ongoing	Amber
Viability and going concern disclosures: FRC thematic review Affects: listed companies	On 22 September 2021, the FRC reported the findings of its thematic review of companies' viability and going concern disclosures. In particular, the review found that: <ul style="list-style-type: none"> the disclosure of inputs and assumptions used in forecast scenarios to support the viability and going concern assessments often lacked sufficient qualitative and quantitative detail; and in some cases, there was evidence to indicate that significant judgements may have been applied in determining whether a company was a going concern or whether this was subject to material uncertainty, but these were not identified or explained. The FRC expects improvements to be made in the above areas and also encourages companies to extend the period over which they assess their viability and provide longer term information where possible.	Ongoing	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Financial reporting effects of COVID-19: FRC thematic review</p> <p>Affects: listed companies</p>	<p>On 21 July 2021, the FRC published the findings from its first thematic review of company reporting since the onset of Covid-19 pandemic. The review found that generally companies had provided sufficient information to enable a user to understand the impact Covid-19 had on their performance, position and future prospects, but some (particularly interim reports) would have benefited from more extensive disclosure. In particular, the FRC highlights that companies, going forward, should:</p> <ul style="list-style-type: none"> ▪ explain the significant judgements and estimates made in preparing their accounts and provide meaningful sensitivity analysis or details of a range of possible outcomes to support any disclosed estimation uncertainty; ▪ describe any significant judgements made in determining whether there is a material uncertainty about their ability to continue as a going concern; ▪ ensure that assumptions used in determining whether the company is a going concern are compatible with assumptions used in other areas of the financial statements; ▪ apply the requirements of IAS 1 to any exceptional or similar items, with income statement sub-totals comprising only items recognised and measured in accordance with IFRS; ▪ apply existing accounting policies for exceptional and other similar items to Covid-19 related income and expenditure consistently and should not split income and expenses between Covid-19 and non Covid-19 financial statement captions arbitrarily; and ▪ prepare interim reports that provide sufficient information to explain the impact that Covid-19 has had on their performance, position and future prospects. 	Ongoing	Amber
<p>Streamlined energy and carbon reporting: FRC thematic review</p> <p>Affects: quoted companies, large unquoted companies and LLPs</p>	<p>On 8 September 2021, the FRC published the findings from its thematic review into reporting on emissions, energy consumption and related matters under the Streamlined Energy and Carbon Reporting rules which came into effect on 1 April 2019, and which apply in respect of financial years beginning on or after 1 April 2019.</p> <p>The review found that reports made largely satisfactory disclosure requirements for emissions and energy consumption, but more needs to be done to make these disclosures understandable and relevant for users. Companies also need to consider how these disclosures integrate with other narrative reporting on climate change.</p>	Ongoing	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Alternative Performance Measures: FRC thematic review</p> <p>Affects: listed companies</p>	<p>In October 2021, the FRC published a thematic review on the quality of APM reporting five years after the ESMA guidelines on APM were implemented. The guidelines apply to companies with securities traded on regulated markets when they present APMs outside the financial statements (i.e. in the narrative sections) in annual reports, half-yearly reports or preliminary announcements. They also apply to other communications, e.g. RNS announcements, which are subject to the Transparency Directive or the Market Abuse Regulation, and to prospectuses.</p> <p>The FRC found that companies generally provided good quality APM disclosures, but that they should be more transparent about their use and linkage to the numbers set out in the financial statements. The thematic review also stated the FRC's expectations relating to APMs including that companies should ensure that APMs are not presented in ways that give them greater prominence than amounts stemming from the financial statements, and that they should provide specific, tailored explanations for the inclusion of individual APMs in their reports.</p>	Ongoing	Amber
<p>IAS 37 'Provisions, Contingent Liabilities and Contingent Assets': FRC thematic review</p> <p>Affects: listed companies</p>	<p>On 14 October 2021, the FRC published the findings from its thematic review into reporting by UK-listed companies on provisions and contingent liabilities in accordance with IAS 37. The FRC believes that reporting in this area is of particular importance to stakeholders because of the forward-looking nature of information provided, especially in relation to long term issues such as climate change and regulatory action.</p> <p>In short, the FRC found numerous instances of good practice across each individual aspect of disclosure, but improvement could be made in certain areas, including in the disclosure of quantitative information on expected timing of future economic outflows, and in the clarification of the nature of the costs included in certain types of provision.</p>	Ongoing	Amber
<p>LSE 2022 Dividend Procedure Timetable</p> <p>Affects: listed companies</p>	<p>On 12 October 2021, the LSE published its 2022 Dividend Procedure Timetable. The timetable is issued each year and is a guide for companies with shares listed on the Official List (or admitted to trading on AIM) on setting their interim and final dividend programmes. It sets out a series of ex-dividend dates for 2022, its associated record date and the corresponding latest announcement date. Under the timetable, companies should pay cash dividends within 30 business days of the record date.</p>	Ongoing	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<p>Reforms to UK listing regime: Listing Rule changes and consultation</p> <p>Affects: listed companies</p>	<p>The government is undertaking a fundamental review of the UK listing regime following the publication of the Hill Review in March 2021. The government is still considering the recommendations from that review, and is expected to detail next steps in due course.</p> <p>In response to the Hill Review, the FCA is also conducting a fundamental review of the listing regime, and published a discussion paper and consultation in July 2021 regarding certain targeted measures to remove barriers to listing. Those came into force on 3 December 2021 via changes to the Listing Rules (Policy Statement 21/22) and included:</p> <ul style="list-style-type: none"> allowing a targeted form of dual class share structures within the premium listing segment; reducing the amount of shares an issuer is required to have in public hands (i.e. free float) to 10% (from 25%); and increasing the minimum market capitalisation threshold for both the premium and standard listing segments for shares in ordinary commercial companies from £700,000 to £30 million (rather than the proposed £50 million consulted on). For investment entities, the threshold remains at £700,000. <p>The FCA plans to provide further feedback on the wider fundamental listing regime reform and set out next steps in H1 2022.</p> <p>Further, and again in response to the Hill Review, HM Treasury launched the UK Secondary Capital Raising Review in October 2021 which will look at how to improve secondary capital raising processes and make recommendations to government. It also published a related call for evidence aimed at providing more options to existing publicly traded issuers when raising capital. Comments were requested by 16 November 2021, and the Review is expected to report in Spring 2022. Issues on which views were sought include:</p> <ul style="list-style-type: none"> If, and how, the duration and cost of the existing UK rights issue process can and should be reduced and whether new technology should be used in the process to improve efficiencies. If fund-raising models in other jurisdictions should be considered for use in the UK. If the greater transparency around short selling introduced after the financial crisis benefited the rights issue process. If refinements should be made to undocumented secondary capital raising process in light of experiences during the pandemic. 	Ongoing	Red
<p>Reforms to UK prospectus regime: consultation</p> <p>Affects: listed companies</p>	<p>Connected to the UK Listing Review (entry above), the government is also undertaking a fundamental review of the UK prospectus regime. On 1 July 2021, HM Treasury published a consultation on proposed reforms which closed on 24 September 2021. A feedback statement is expected. Reform of the regime will be in two stages: first legislation and second an FCA review on any new rules it will be empowered to make. Matters on which the consultation sought views included:</p> <ul style="list-style-type: none"> Overall approach, including having separate regimes for public offerings and for seeking admission to a regulated market. New FCA powers on admission to regulated markets, including discretion to recognise prospectuses drawn up in other jurisdictions. New exemption from public offer rule for existing holders of securities and powers for exemptions to public offer rules to be varied by secondary legislation. Prospectus content, including the 'necessary information' test, and the review and approval of prospectuses. The standard of liability for forward-looking information and the requirement for additional warnings in relation to such information. 	Ongoing	Red

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
<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 allow it to block a company's listings on national security grounds closed on 27 August 2021. While the government intends that 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.</p> <p>The government intends that there will be minimal additional action required from prospective issuers and the proposed approach is based on companies making certain additional disclosures which are likely to already be made elsewhere in the listings process. The government is also considering an early disclosure option for those companies seeking assurance before they choose to list in the UK.</p> <p>This consultation precedes further technical consultation and legislation on the proposed power.</p>	Ongoing	Amber
<p>FCA to adapt ESMA guidelines on disclosure requirements under the Prospectus Regulation into Technical Note</p> <p>Affects: listed property companies</p>	<p>The FCA published Primary Market Bulletin 34 in June 2021 in which it proposed to adopt (with modifications) the European Securities and Markets Authority's guidance on disclosure requirements under the EU Prospectus Regulation (ESMA Guidelines) and to include the specialist issuer measures set out in the recommendations published by the Committee of European Securities Regulators (CESR Recommendations) – see background in Q3 2021 REIT Horizon Scanner. 'Specialist issuer' includes property companies. The FCA will adapt the ESMA Guidelines and the measures on specialist issuers from the CESR Recommendations as FCA guidance by way of a proposed new Technical Note: Primary Market/TN/619.1. Comments on this (and other changes to the FCA's Knowledge Base) were requested by 4 August 2021.</p> <p>The FCA also consulted, in its September 2021 Quarterly Consultation Paper, on various consequential amendments to the Prospectus Regulation Rules and the Listing Rules to align with changes to the prospectus regime guidance arising from PMB 34, and on removing the CESR Recommendations and Prospectus Directive Q&As from the FCA Handbook.</p> <p>The modified ESMA Guidelines broadly follow the EU version, but the FCA proposes to make the following notable amendments:</p> <ul style="list-style-type: none"> ▪ The FCA will not adopt ESMA's position that pro forma information should be provided when an issuer's size has changed by at least 25%, regardless of whether this change took place in one or several transactions, due to its concerns that the aggregation approach imposes a disproportionate burden on issuers with limited additional benefit to investors. The FCA proposes to continue with the existing approach in the ESMA Prospectus Directive Q&A. ▪ The FCA is proposing to make an addition to the ESMA guideline on rules for the calculation of working capital to reflect existing UK market practice of relying on minimum net proceeds for the calculation of working capital by new issuers that are closed-ended investment funds. 	Ongoing	Green

Equity capital markets (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>ESG: FRC report on board diversity and effectiveness in FTSE 350 companies</p> <p>Affects: listed companies (specifically FTSE 350 companies)</p>	<p>The FRC published a joint report with the London Business School, Leadership Institute and SQW on board diversity and effectiveness in FTSE 350 companies. The main findings included in the report are that:</p> <ul style="list-style-type: none">responsibility falls to the Chair of a board to drive inclusion;regulators and companies must focus on collecting more data on the types of diversity, board dynamics and social inclusion; andthe Nomination Committee itself should be diverse and have a clear mandate to work with search firms that access talent from wide and diverse pools.	<p>Ongoing</p>	<p>Amber</p>

The logo for TaylorWessing, featuring the company name in a teal, sans-serif font.

TaylorWessing

A vertical teal bar on the left side of the page.

2 | General corporate

General corporate

Key developments in Q4 2021

- For financial periods beginning on or after 6 April 2022, mandatory TCFD-aligned financial reporting will be expanded to a wider scope of UK companies, and LLPs
- HM Treasury's Greening Finance policy paper includes proposals for a new framework for sustainability disclosures
- National Security and Investment Act 2021 came into force expanding the government's powers to scrutinise certain transactions on national security grounds
- BEIS, HMRC and HM Treasury published a consultation on proposals to introduce a corporate re-domiciliation regime to enable overseas companies to change their places of incorporation to the UK while maintaining their legal identities as corporate bodies

Issues	Status	Key Timing	Impact
<p>COVID-19: GC100 consultation on hybrid and virtual meetings</p> <p>Affects: potentially all companies</p>	<p>On 28 January 2021, GC100 published a paper proposing legislative changes to the current format for AGMs following the pandemic. Although focused on AGMs and listed companies, many of the recommendations would apply to other shareholder meetings and any reforms made would likely need to be reflected in company law more generally.</p> <p>The paper recommends amending the Companies Act 2006 to expressly permit virtual meetings to provide more certainty around the validity of hybrid and virtual meetings. It also includes a draft code of best practice on hybrid and virtual shareholder meetings which includes (among other things) pro forma wording for proposals to amend articles of association to allow hybrid and virtual meetings and to postpone them for technical reasons. GC100 intends to work on the draft code with government, the FRC and investor bodies.</p>	Ongoing	Amber
<p>COVID-19: Corporate Insolvency and Governance Act - other measures</p> <p>Affects: all companies</p>	<p>On 30 September 2021, the temporary restrictions on statutory demands and winding-up petitions under CIGA 2020 expired. However, new temporary targeted restrictions for winding up petitions in relation to small businesses and commercial tenants, which are presented between 1 October 2021 and 31 March 2022, are set out in the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Schedule 10) (No. 2) Regulations 2021 (in force 1 October 2021). For details, see previous edition of this scanner.</p> <p>Note that Secretary of State's extended powers under CIGA 2020 to amend corporate insolvency or governance legislation due to COVID-19 expire on 29 April 2023.</p>	Until March 2022, and ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Corporate reporting: FRC annual review</p> <p>Affects: all companies, in particular larger companies and listed companies</p>	<p>On 27 October 2021, the FRC published its annual review of corporate reporting for 2020/2021. This sets out the FRC's top ten areas where improvements to reporting are required in 2021/22. In particular, the FRC expects (among other things):</p> <ul style="list-style-type: none"> ▪ clear and sufficiently detailed explanations of significant judgements made so as to understand their financial reporting effects; ▪ information in the financial statements to be consistent with that reported in the rest of the annual report and accounts; ▪ material climate change policies, risks and uncertainties to be discussed in narrative reporting and appropriately considered and disclosed in the financial statements; ▪ information to meet the disclosure objectives of the relevant accounting standards, as well as the specific disclosure requirements; ▪ the strategic report to address the positive and negative aspects of the company's development, performance, position and future prospects openly without bias; and ▪ compliance with the specific Companies Act 2006 requirements around distributions. <p>The FRC also published its year-end bulletin of key corporate reporting matters for companies. This sets out the FRC's areas of focus for the coming year, which include climate-related risks and new disclosures, in particular how companies report against the new Taskforce for Climate-related Financial Disclosures recommendations; and judgement and uncertainty in the face of the impact of Covid-19.</p>	2021/2022 reporting	Amber
<p>Corporate reporting: FRC Lab reports on stakeholder engagement, and risks, uncertainties and opportunities</p> <p>Affects: large companies and public companies</p>	<p>In July 2021, the FRC Lab published a report on what investors want from companies in terms of reporting on stakeholders, decisions and s 172 CA 2006. The principle information that investors want to see includes:</p> <ul style="list-style-type: none"> ▪ who a company's key stakeholders are, why they are key stakeholders and what is important to them, as well as what the company is doing to build and maintain the relationship with those key stakeholders; and ▪ what decisions of strategic significance were made during the year, how they were made, how stakeholders were involved and what the outcomes, or expected outcomes, were or are of those decisions. <p>Investors also want 'section 172 statements' that bridge information on stakeholders and decisions, and that reflect how the company is progressing in its pursuit of its purpose and long-term success.</p> <p>The FRC Lab has also published a report on what information investors want relating to risks, uncertainties and opportunities that contribute to their understanding of a company's business model, longer-term strategy, resilience and viability.</p>	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Corporate reporting: FRC feedback on proposals for principles-based corporate reporting</p> <p>Affects: all companies, in particular larger companies</p>	<p>On 30 July 2021, the FRC published feedback on its consultation on proposals to replace the current corporate reporting system with a principles based framework. The FRC will now consider how best to develop some of its ideas taking into account the feedback received.</p> <p>In brief, feedback was broadly supportive of a reporting model that accommodates the information needs of investors and wider stakeholders, and of the:</p> <ul style="list-style-type: none"> ▪ development of one set of guiding principles including: <ul style="list-style-type: none"> ▪ Four system-level attributes at the top level - that company reports are accessible, inter-connected, consistent and transparent. ▪ Two report-level attributes thereafter - that individual reports be fair, balanced, understandable and show a true and fair view. ▪ Four content communication principles - that each report be brief, comprehensive and useful; contain only relevant information; contain company-specific information and avoid boilerplate; and be comparable against historic and other companies' reports; ▪ unbundling of the annual report into separate network reports including: <ul style="list-style-type: none"> ▪ Three core mandatory reports: the company's financial statements; a stakeholder-neutral Business Report (based on the strategic report); and a Public Interest Report (covering impact on stakeholders and the environment). ▪ Additional stand-alone financial and non-financial reports that provide detail for specific purposes (e.g. investor presentations, half-year reports and divisional financial statements). ▪ development of standards for non-financial reporting (however, respondents strongly advocated for the alignment of any non-financial reporting standards with international frameworks and initiatives, e.g. the IFRS Foundation's signalled work on sustainability reporting); ▪ importance of firms providing information about how they view their obligations in respect of the public interest; and ▪ use of technology in presenting information. 	Ongoing	Amber
<p>ESG: Stewardship reporting: FRC report</p> <p>Affects: asset managers and owners</p>	<p>On 1 December 2021, the FRC published 'Effective Stewardship Reporting: Examples from 2021 and expectations for 2022' which analyses reports from the first signatories to the revised Code published in September 2021. The FRC found that there continues to be high quality disclosures in the areas of governance, resourcing, and the integration of stewardship and ESG factors with investment. However, improvement is required when reporting on how they manage stewardship-related conflicts of interest, how managers review and assure their stewardship activities, and how they monitor and hold to account service providers operating on their behalf.</p>	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>ESG: gender and ethnicity pay reporting</p> <p>Affects: UK employers with 250 or more employees</p>	<p>The Government Equalities Office's 2019 roadmap for tackling gender equality included assessing the effectiveness of gender pay gap reporting and consulting on any changes by 2021. Employers had until 5 October 2021 to report their gender pay gap information for the 2020/2021 reporting year (extended by six months due to COVID). No enforcement action would be taken if they had reported by then.</p> <p>A 2018 consultation suggested introducing an ethnicity pay gap reporting regime. In its 14 July 2020 response to the BEIS Committee's recommendations following the Thomas Cook inquiry, the government noted it would respond to the 2018 consultation in due course, and noted it supports initiatives for board diversity and leadership talent pipeline such as the Hampton-Alexander Review and Parker Review. A Parliamentary debate on the topic took place in September 2021 and the government confirmed it would respond to the consultation in due course.</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>ESG: modern slavery: human trafficking statement</p> <p>Affects: large companies</p>	<p>The government intends to make changes to the Modern Slavery Act 2015 in due course that will make it mandatory for organisations to publish their statements on its designated central registry. Ahead of the necessary legislative change to mandate this, the government encourages organisations to publish statements on the government-run modern slavery statement registry.</p> <p>Other measures following the Home Office's 2019 consultation on making transparency requirements and reporting processes clearer, and its September 2020 response, are awaited.</p>	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>ESG: mandatory climate-change reporting</p> <p>Affects: large companies, listed companies and asset managers</p>	<p>For financial periods beginning on or after 6 April 2022, mandatory climate-related financial reporting in line with the Taskforce on Climate-related Financial Disclosures recommendations will be expanded to a wider scope of UK companies, and LLPs, to include:</p> <ul style="list-style-type: none"> ▪ Relevant Public Interest Entities – all UK companies that are currently required to produce a non-financial information statement, including UK companies with > 500 employees and transferable securities admitted to trading on a UK regulated market; ▪ UK registered companies with securities admitted to AIM with > 500 employees; ▪ UK registered companies not falling in the above categories but with > 500 employees and turnover of > £500 million; and ▪ LLPs with > 500 employees and turnover of > £500 million. <p>This follows a government consultation on such expansion, and subsequent response published in October 2021.</p> <p>Two sets of regulations will bring the changes into force on 6 April 2022: one for companies, another for LLPs. The draft company regulations have been published and laid in Parliament. The LLP regulations will be made after the company regulations have been approved. The government had intended to publish the accompanying non-mandatory guidance before the end of the 2021, but at time of publication had not yet done so. The final required disclosures for relevant entities will be a description of:</p> <ul style="list-style-type: none"> ▪ The company's governance arrangements in relation to assessing and managing climate-related risks and opportunities. ▪ How it identifies, assesses, and manages climate-related risks and opportunities. ▪ How processes for identifying, assessing, and managing climate-related risks are integrated into its overall risk management process. ▪ The principal climate-related risks and opportunities arising in connection with its operations, and the time periods by reference to which those risks and opportunities are assessed. ▪ The actual and potential impacts of the principal climate-related risks and opportunities on its business model and strategy. ▪ The targets used to manage climate-related risks and to realise climate-related opportunities and of performance against those targets. ▪ The key performance indicators used to assess progress against targets used to manage climate-related risks and realise climate-related opportunities and of the calculations on which those key performance indicators are based. ▪ The analysis of the resilience of the business model and strategy, taking into consideration different climate-related scenarios. 	6 April 2022	Red

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>ESG: new Sustainability Disclosure Requirements and net zero transition plans</p> <p>Affects: large companies, listed companies and asset managers</p>	<p>On 18 October 2021, HM Treasury published a policy paper 'Greening Finance: A Roadmap to Sustainable Investing'. The roadmap includes phasing in over a number of years new Sustainability Disclosure Requirements (SDR) which build on the UK's TCFD implementation and which will require companies to disclose sustainability-related information, including reporting against the UK green taxonomy. This taxonomy will set out the criteria which specific economic activities must meet to be considered environmentally sustainable and will create a shared understanding of what economic activities can be classed as 'green'. As noted in section 3, Financial regulatory, the FCA has also published a discussion paper seeking views on proposed new requirements for asset managers and asset owners that manage or administer assets on behalf of clients and consumers to disclose how they take sustainability into account (DP21/4) and plans to consult in Q2 2022.</p> <p>On 3 November 2021, the government confirmed that it would introduce mandatory requirements for asset managers, regulated asset owners and listed companies to publish transition plans that consider the government's net zero commitment or provide an explanation if they have not done so, and has provided guidance on what a transition plan is and what will be required (see HM Treasury Fact Sheet). The government intends to launch a high-level Transition Plan Taskforce to develop a gold standard for transition plans and associated metrics, which will report by the end of 2022. The government will expect firms to start publishing transition plans in 2023 (see Chancellor: UK will be the world's first net zero financial centre). The guidance confirms that the government is not requiring firms to adopt mandatory net zero targets.</p> <p>The SDR framework, UK Green Taxonomy and net zero transition plans will likely be subject to various consultations and feedback statements which are expected in 2022. The paper indicates that, following primary legislation receiving Royal Assent, implementation will be carried out over three years.</p>	<p>2022 and ongoing</p>	<p>Amber</p>

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Corporate transparency - Companies House reform</p> <p>Affects: all companies</p>	<p>On 18 September 2020, the government responded to the consultation on enhancing Companies House and increasing transparency of UK corporate entities. Proposals included:</p> <ul style="list-style-type: none"> compulsory identity verification for all directors and PSCs, general partners in limited partnerships, designated members in LLPs, and individuals who file company information, and restrictions on who can file company information; increased Companies House powers to query and remove/ reject certain information and company names; reporting obligations for bodies subject to anti-money laundering regulations on discrepancies between the public register and information they hold, and cross-referencing of Companies House data against other data sets; reviewing accounts filings, including exemptions allowing micro or dormant accounts; and reforming certificates of good standing. <p>Following its response to this consultation, between 9 December 2020 and 3 February 2021 the government published further consultations on: (a) reforms to the powers of the Registrar; (b) implementing the ban on corporate directors, and (c) improving the quality of company accounts (see below). The responses to the three consultations will be considered in parallel with each other, and the Companies House Annual Report and Accounts 2020/21 notes that it intends to design and plan for the implementation of these reforms during 2022.</p>	Ongoing	Amber
<p>Consultations on: (a) reforms to the powers of the Registrar; (b) implementing the ban on corporate directors, and (c) improving the quality of company accounts</p> <p>Affects: all companies, in particular with corporate directors</p>	<p>Following its response to the consultation on enhancing Companies House and increasing transparency of UK corporate entities mentioned above, between 9 December 2020 and 3 February 2021 the government consulted on the three following areas:</p> <p>(a) Powers of the registrar</p> <p>Among other things, it is proposed to:</p> <ul style="list-style-type: none"> expand Companies House's powers to be able to query any error, inaccuracy or anomaly that appears fraudulent, suspicious or that might impact significantly on the register's integrity and the UK's business environment. This would cover new submissions and also information in documents already registered where, in the absence of a satisfactory response, offending material can be removed from the public register (in some cases this would continue to require a court order). Further, a company name could be rejected if Companies House believes it has been chosen to mask underlying criminal or fraudulent activity. An existing company could be told to change its name or have it forcibly changed; and abolish the requirement for a company to maintain a register of directors (using the public record as proof instead). The consultation also seeks views on requirements for companies to keep other statutory registers (existing requirements around the register of members would be unlikely to change). 	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Consultations on: (a) reforms to the powers of the Registrar; (b) implementing the ban on corporate directors, and (c) improving the quality of company accounts (continued)</p> <p>Affects: all companies, in particular with corporate directors</p>	<p><u>(b) Implementing the ban on corporate directors</u> The ban is contained in the Small Business, Enterprise and Employment Act 2015, but is not yet in force. The consultation focuses on the exceptions to the ban.</p> <p>The ban will mean that only natural persons can be directors of UK companies, subject to exceptions (although at least one director would still be required to be a natural person). An attempt to appoint a corporate director will be void and an offence committed by the attempting appointer, proposed appointee and each of their respective directors in default. Companies with existing corporate directors will have 12 months after the ban comes into effect to remove them. Any remaining in office thereafter will cease to hold office.</p> <p>The consultation proposes an exception whereby a corporate entity could be a director if:</p> <ul style="list-style-type: none"> ▪ all of its own directors are natural persons (and any attempt to appoint a corporate director would be void); and ▪ those natural persons verify their identity with Companies House before the appointment. <p>Where a UK company proposes to appoint an overseas entity as a director, it would be required to assure itself that the overseas entity's directors are all natural persons and confirm that annually in its confirmation statement. Only limited companies would be able to act as corporate directors, but views are sought on whether LLPs and LPs should also be included and what conditions should attach to them.</p> <p><u>(c) Improving the quality and value of financial information on the UK companies register;</u> Proposals include:</p> <ul style="list-style-type: none"> ▪ Requiring digital filing of all company accounts. ▪ Requiring full tagging of company accounts using iXBRL (already mandatory for accounts filed with HMRC). ▪ Shortening deadlines for filing accounts and reports, e.g. to six and three months for private and public companies respectively. ▪ Requiring accounts to include metrics on turnover, balance sheet size and number of employees to show that a company is large, medium, small or micro, and for director certification of eligibility to file in the size category being claimed. ▪ Simplifying the small and micro regimes. ▪ Requiring companies to file the most detailed version of any accounts they prepare with all relevant bodies. ▪ Views on how financial information could be shown at Companies House in a more accessible way are also sought. <p>The government will consider the responses to the three consultations in parallel with each other.</p>	<p>Ongoing</p>	<p>Amber</p>

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Consultation on audit and corporate governance reform</p> <p>Affects: all companies</p>	<p>On 18 March 2021, BEIS published a consultation paper on restoring trust in audit and corporate governance (closed 8 July 2021). A response is awaited. Key proposals include:</p> <ul style="list-style-type: none"> ▪ Audit, Reporting and Governance Authority (ARGA) – new powers and functions <ul style="list-style-type: none"> ▪ Including new competition powers, increased corporate reporting review function, oversight of FTSE 350 audit committees, enforcement powers for corporate reporting duties of directors, and new power to order amendments to company reports directly rather than requiring a court order. (FRC's 2021/22: Draft strategy and plan & budget assumes further two-year transition period to the creation of ARGA in 2023). ▪ For directors: <ul style="list-style-type: none"> ▪ New duties relating to internal controls, risk management and reporting on anti-fraud measures. ▪ Clawback of bonuses in the event of collapse or for serious director failings within two years of the award. ▪ Enhanced ARGA powers to investigate and enforce breaches of duty and misconduct relating to corporate reporting and audit. ▪ Stronger disclosure and attestation requirements for listed companies relating to dividends and capital maintenance, including: <ul style="list-style-type: none"> ▪ ARGA will have responsibility for defining 'realised profits' and 'realised losses'. ▪ Enhanced legal status and enforceability of the distributable profits definition in s 853 Companies Act 2006. ▪ A requirement for companies to disclose total (or 'known') distributable reserves. ▪ A requirement on parent companies to disclose the group's potential distributable profits that could in theory be passed to it to pay future dividends to shareholders. ▪ A requirement for a formal directors statement on the legality of proposed dividends and the effect on future solvency. ▪ New requirements for premium listed companies to publish (with the requirements extending to other PIEs two years later): <ul style="list-style-type: none"> ▪ An annual audit and assurance policy describing the approach taken to seeking assurance of the company's reported information over the next three years and on which shareholders of quoted public listed entities would give an advisory vote. ▪ An annual resilience statement on mitigation of risk, consolidating and building on existing going concern and viability statements. <p>Other proposals relating to auditors and the audit market are outside the scope of this scanner.</p>	<p>Ongoing</p>	<p>Amber</p>

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>M&A/investment: National Security and Investment Act 2021 comes into force</p> <p>Affects: all companies</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. The new powers replace those in the Enterprise Act 2002 and, in brief, are triggered where control of a 'qualifying entity' or 'qualifying asset' (including <u>land</u> and tangible moveable property) occurs in circumstances where there is possible risk to national security.</p> <p>The new regime under NSIA operates: (a) a mandatory notification system whereby government approval is needed to complete an in-scope transaction; (b) a voluntary notification system which encourages notifications of transactions which could potentially give rise to national security concerns but which do not yet fall within the scope of the NSIA regime; and, (c) a 'call-in power' for government to call-in in-scope transactions for review whether or not they have been notified. The government will have the power to impose remedies such as conditions to completion and prohibiting or unwinding transactions, and also to impose fines and prison sentences for non-compliance with the regime.</p> <p>The scope of the NSIA regime is wide. There are no jurisdictional thresholds, e.g. for turnover or transactional value, to be met before the regime is triggered, and the regime's reach goes beyond foreign investment to potentially catch acquisitions by UK investors. Also, overseas entities may constitute 'qualifying entities' if they carry on activities in the UK or supply goods or services to persons in the UK. Land or tangible movable property that is situated outside the UK could also be a 'qualifying asset' if it is used in connection with activities in the UK or with the supply of goods or services to persons in the UK. Further, the NSIA regime catches more than M&A as it targets different levels of control, e.g. investments by way of share subscriptions could also be caught.</p>	<p>Ongoing</p>	<p>Amber</p>

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Consultation on non-compete clauses</p> <p>Affects: UK employers and employees</p>	<p>In December 2020, the government consulted on reforming the law on non-compete clauses in employment contracts. It aims to give employees more freedom and flexibility to drive economic recovery, and ensure fair settlement where restrictions apply. A response is awaited. Two options are proposed:</p> <ul style="list-style-type: none"> ▪ Mandatory compensation, where the non-compete would be enforceable only if the employer provides some form of compensation during the non-compete period (some do this already or use 'garden leave' clauses). Additional measures are proposed, including a requirement to disclose the terms of the non-compete before the individual becomes an employee and imposing a maximum limit on the duration of non-competes. ▪ An outright ban, possibly subject to exceptions. <p>The consultation also asks whether limits should be applied to other kinds of restrictive covenant such as non-solicitation, non-dealing and protection of goodwill clauses.</p>	Ongoing	Amber
<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. As a result of this, the government now plans to explore the feasibility and implications of the key priority areas for change identified by respondents, including a single self-assessed tax on shares, territorial scope and digitisation.</p>	Ongoing	Green
<p>Dormant Assets scheme extended to wider range of financial assets</p> <p>Affects: potentially traded public companies and collective investment schemes</p>	<p>The Dormant Assets Bill is making its way through the House of Lords. The Bill looks to extend the scheme established by the Dormant Bank and Building Society Accounts Act 2008 that distributes dormant assets from bank and building society accounts to good causes, while retaining funds to meet any future claims on them, to a range of other financial assets including collective investment schemes and proceeds or distributions from shares in traded public companies. Each financial asset would have its own definition of dormancy attached to it. Participation would be voluntary.</p>	Ongoing	Green

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Corporate re-domiciliation</p> <p>Affects: all foreign-incorporated companies</p>	<p>On 27 October 2021 BEIS, HMRC and HM Treasury published a consultation seeking views on their proposal to introduce a corporate re-domiciliation regime which will enable overseas companies to change their places of incorporation to the UK while maintaining their legal identities as corporate bodies. Comments were requested by 7 January 2022.</p>	Ongoing	Green
<p>Directors Disqualification: dissolved companies</p> <p>Affects: all directors</p>	<p>The provisions of the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 that extend the scope of the current disqualification regime to include former directors of dissolved companies come into force on 15 February 2022.</p>	15 February 2022	Amber
<p>Register of beneficial owners of overseas entities that own UK property</p> <p>Affects: non-UK companies (and their investors)</p>	<p>Legislation for the new register of beneficial owners of overseas entities that own UK property is still in draft form: the Registration of Overseas Entities Bill. The government had originally anticipated that, following Royal Assent and secondary legislation, the register would be operational in 2021. As update is awaited. (This could affect non-UK subsidiaries in REIT groups.)</p> <p>On 8 February 2021, the House of Commons Library published a briefing on UK and international registers of beneficial ownership that includes (among other things) a summary of what it terms the new proposed 'Overseas Entity Beneficial Ownership' regime.</p>	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Law Commission law reform programme for 2021</p> <p>Affects: all companies</p>	<p>The Law Commission's consultation on its 14th programme of law reform closed on 31 July 2021 and the final programme will be published in H1 2022. Specific ideas for law reform include (among other things):</p> <ul style="list-style-type: none"> ▪ Modernising the law of deeds for commercial parties whilst still protecting vulnerable individuals, 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>The Law Commission also intends to publish a paper setting out options for reform of the corporate criminal liability regime in early 2022. This follows the publication of a discussion paper (June 2021) which sought views on whether, and how, the law relating to corporate criminal liability could be improved to appropriately capture and punish criminal offences committed by corporations and their directors or senior management.</p>	2022	Green
<p>Late payment practices</p> <p>Affects: large companies</p>	<p>An update is awaited on the government's plan for a new requirement for audit committees to review and report on payment practices in annual accounts (outlined in BEIS' 2019 response to its 2018 call for evidence on tackling late payment).</p> <p>On 19 January 2021, the government announced that it intends to reform the voluntary Prompt Payment Code to encourage large companies to pay smaller suppliers in time. In particular, finance directors and CEOs must now personally sign the code so that responsibility for payment practices is taken at the highest level.</p> <p>On 17 November 2021, BEIS published a call for evidence in relation to its statutory review of the Reporting on Payment Practices and Performance Regulations 2017. The Regulations introduced a requirement for qualifying companies (i.e. large companies under s 465(3) CA 2006) and LLPs to publicly report twice yearly on their payment practices on a government-provided web service. The review aims to assess whether the Regulations are meeting their objectives. The closing date for responses is 4 February 2022 and the government's report on its review must be published before 6 April 2022.</p>	Ongoing	Green
<p>Dematerialisation of shares</p> <p>Affects: all companies whose shareholders hold shares in paper form</p>	<p>The government is working with industry, regulators and shareholders to determine the best way to convert shares which are still held in paper form into electronic form. This follows a government policy paper on various regulatory reforms post-Brexit published in September 2021.</p>	Ongoing	Green

General corporate (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Corporate reporting: VAR technologies</p> <p>Affects: larger companies</p>	<p>In February 2021, the FRC's Financial Reporting Lab reported on how virtual and augmented reality technologies could be used to expand the scope of, and audience for, corporate reporting.</p>	Ongoing	Green
<p>Temporary electronic stamping procedures now permanent</p> <p>Affects: all companies with shares</p>	<p>On 30 April 2021, HMRC updated its guidance on completing stock transfer forms to confirm that the temporary electronic stamping procedures put in place in response to the COVID-19 pandemic are now permanent. Stock transfer forms stamped under the new procedures are confirmed to be 'duly stamped'. Following this, on 18 June 2021, HMRC announced that with effect from 19 July 2021, it would discontinue the use of physical stamping in relation to stamp duty.</p>	Ongoing	Green
<p>Late payment practices</p> <p>Affects: large companies</p>	<p>From 1 July 2021, signatories to the Prompt Payment Code have been required to pay 95% of invoices from small businesses (fewer than 50 employees) within 30 days. The target for larger businesses remains at 95% of invoices within 60 days.</p>	Ongoing	Green

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3 | Financial regulatory

Financial regulatory

Key developments in Q4 2021

- FCA policy statement on TCFD-aligned climate related disclosure requirements
- Climate Financial Risk Forum publishes a second round of guides to climate-related financial risks
- FCA updated webpage on IFPR
- FCA sustainability disclosure requirements and investment labels
- Economic Crime Levy update

Issues	Status	Key Timing	Impact
<p>FCA policy statement on TCFD-aligned climate related disclosure requirements</p> <p>Affects: REIT managers with AUM over specified thresholds</p>	<p>On 17 December 2021, the FCA published a policy statement (PS21/24) confirming final rules and guidance to promote better climate-related financial disclosures by asset managers and asset owners.</p> <p>Asset managers, which includes UK AIFMs, must now disclose how they take climate-related risks and opportunities into account in managing investments and will also be required to make disclosures about the climate-related attributes of their products.</p> <p>The rules are being applied in two implementation phases:</p> <ul style="list-style-type: none"> ▪ Phase 1 applies from 1 January 2022 to asset managers with AUM over £50 billion. The first public disclosures in line with the FCA requirements must be made by 30 June 2023. ▪ Phase 2 applies from 1 January 2023 to asset managers with AUM over £5 billion. The deadline for disclosures for these asset managers will be 30 June 2024. <p>The policy statement acknowledges the importance of the International Sustainability Standards Board, which was launched at COP26, and IOSCO's recommendations on sustainability-related practices, policies, procedures and disclosure in asset management, which was published in November 2021.</p>	Q1 2022	Red

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>Climate Financial Risk Forum publishes second round of guides to climate-related financial risks</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 21 October 2021, the Climate Financial Risk Forum (CFRF) published a second round of guides to assist the financial sector develop its approach to addressing climate-related financial risks and opportunities. These 'best practice' guides focus on risk management, scenario analysis, disclosure, innovation, and climate data and metrics and build on the first guide that was published in June 2020.</p> <p>A total of 10 different outputs have been published by the five CFRF working groups:</p> <ul style="list-style-type: none"> Risk Management – Risk appetite statements Risk Management - Use cases Risk Management – Climate risk training Scenario Analysis – Implementation guide Scenario Analysis – Data and tools providers spreadsheet Disclosure – Case studies Disclosure – Managing legal risk Innovation – Commentary report Innovation – Case study videos Climate Data and Metrics – Guide <p>For further background on the CFRF and the June 2020 guide, see page 21 of our Q4 2020 update.</p>	Ongoing	Red
<p>FCA updated webpage on IFPR</p> <p>Affects: REIT managers that are collective portfolio management investment firms, REIT advisers that are MiFID investment firms</p>	<p>The FCA has updated its webpage on the Investment Firms Prudential Regime (IFPR) to reflect the coming into force of the new regime on 1 January 2022.</p> <p>The webpage includes links to the final IFPR rules and guidance (which includes the rules from the third FCA policy statement, published in November 2021) and two IFPR webinars it hosted on 30 November 2021.</p>	1 January 2022	Red

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>FCA sustainability disclosure requirements and investment labels</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 3 November 2021, the FCA published a discussion paper (DP21/4) on sustainability disclosure requirements (SDR) and investments labels, seeking initial views on SDR for asset managers and a new labelling system focused on sustainable investment products. The FCA is considering a three-tiered system to incorporate both labels and disclosures:</p> <ul style="list-style-type: none"> ▪ Product labels – a standardised product classification and labelling system to help consumers determine sustainability characteristics of products. ▪ Disclosure layer 1 – consumer-facing product-level disclosures to provide standardised information on the product's main sustainability features. ▪ Disclosure layer 2 – detailed disclosures made at entity and product level to provide granular and additional information. <p>The discussion paper closed for responses on 7 January 2022. The FCA plans to consult on policy proposals in Q2 2022. The FCA also announced it is establishing a Disclosures and Labels Advisory Group, which will meet regularly and provide the FCA with feedback and technical advice.</p>	Ongoing	Red
<p>FCA climate change adaptation report</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 28 October 2021, the FCA published the FCA Climate Change Adaptation Report. The report contains an assessment of how the FCA and the firms it regulates are adapting to the challenges of climate change. It should be read against the background of the FCA's strategic approach to climate change, including the transition to net zero by 2050.</p> <p>The report sets out:</p> <ul style="list-style-type: none"> ▪ the regulator's climate change and environmental, social and governance (ESG) strategy and how it is evolving ▪ a timeline of forthcoming ESG publications ▪ the climate-related risks that financial services firms are exposed to, including insurance underwriting risk, credit risk, financial market risk and operational risk ▪ how firms are addressing and adapting to these climate-related risks and opportunities ▪ how firms and listed companies are planning to transition to net zero ▪ the role of capital mobilisation in financing both climate change adaptation and climate change mitigation. <p>The FCA encourages asset managers to 'proactively engage with their clients to ensure they understand the [net zero] commitments and how these will affect them'.</p> <p>The FCA welcomes feedback on the report.</p>	Ongoing	Red

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>Economic Crime Levy update</p> <p>Affects: REITs, REIT managers, and REIT advisers (where they are in the AML regulated sector)</p>	<p>On 27 October 2021, HMRC published a policy paper on the Economic Crime Levy, which will apply to entities that are regulated for anti-money laundering (AML) purposes under the Money Laundering, Terrorist Financing and Transfer of Funds Information on the Payer) Regulations 2017 (SI 2017/692).</p> <p>The relevant legislative provisions that will establish the levy are found in Part 3 of the Finance (No. 2 Bill). As at 11 January 2022, the Bill was at the report stage in the House of Commons.</p> <p>Currently, the levy will operate as follows:</p> <ul style="list-style-type: none"> ▪ small (under £10.2m UK revenue) (exempt from levy) ▪ medium (£10.2m - £36m) (£10,000 levy) ▪ large (£36m - £1bn) (£36,000 levy) ▪ very large (over £1bn) (£250,000 levy). <p>The levy will first be charged in the financial year running from 1 April 2022 to 31 March 2023 on any medium, large and very large entities regulated for AML purposes at any point during that year. First payments will be due in the financial year 1 April 2023 to 31 March 2024.</p> <p>The Association of Investment Companies (AIC) has raised concerns about including closed-ended investment companies (which includes REITs) in the scope of anti-money laundering obligations and therefore whether it is appropriate for them to be within the scope of the levy. The AIC lobbied the government in response to HM Treasury's Call for Evidence: Review of the UK's AML/CTF regulatory and supervisory regime and continues to do so. Their submission is available to AIC members here.</p>	Ongoing	Red
<p>PRIIPs - update on timing of amendments to Regulatory Technical Standards</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>The fourth edition of the FCA's Regulatory Initiatives Grid (published in November 2021) provides an update on the timing of the implementation of changes to the UK PRIIPs Regulation. In the FCA's July 2021 consultation paper(CP21/23), it noted that it expected final rules to take effect in January 2022. It is now aiming to publish its policy statement in Q1 2022. The policy statement will include confirmation of when the rules will take effect and any implementation period.</p> <p>The FCA's proposals will:</p> <ul style="list-style-type: none"> ▪ clarify how PRIIPs are 'made available' to retail investors. ▪ amend the Regulatory Technical Standards to replace the presentation and performance scenarios in the Key Information Document (KID) with narrative information on performance, resolve the potential for PRIIPs to be assigned an inappropriately low summary risk indicator, and address concerns over the slippage method in calculating transaction costs. 	Q1 2022	Red

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>FCA's strategy for ESG priorities</p> <p>Affects: REITs, REIT managers, REIT advisers</p>	<p>On 3 November 2021, the FCA published its strategy for ESG priorities, including how it plans to deliver on its ESG-related targets set out in its Business Plan for 2021/22. The FCA outlined five themes central to its ESG strategy:</p> <ul style="list-style-type: none"> ▪ Trust – building trust and integrity in ESG instruments, products, and the wider ecosystem. ESG-labelled financial instruments and products should not be 'greenwashed', and consumers must be able to trust green financial instruments. ▪ Transition – supporting the delivery of a market-led transition to a more sustainable economy through finance. This includes listed companies and regulated firms having transition plans which meet the government's net zero targets. ▪ Team – developing tools, resources, strategies, and structures to integrate ESG into the FCA's activities. ▪ Transparency – high quality, comparable, and consistent information on the impact and opportunities of climate- and ESG- related risks is needed to transition to a more stable, less carbon-intensive economy. ▪ Tools – the FCA should utilise its relationships, powers, and tools to achieve ESG outcomes and enhance industry capability. <p>The FCA will provide updates on the ESG strategy progress in its 2022 business plan and annual report, as well as more detailed analysis on its progress in 2023.</p>	Ongoing	Red
<p>Regulators set out their views on plans to improve diversity and inclusion in financial services</p> <p>Affects: REIT managers and REIT advisers</p>	<p>The FCA, the Prudential Regulation Authority, and the Bank of England have published a joint discussion paper (DP21/2), in which they set out a number of policy options to improve on diversity and inclusion in financial services. The options include targets for representation, ensuring senior leaders are directly accountable for diversity and inclusion in the firms, linking remuneration to diversity and inclusion metrics, and providing guidance on what amounts to non-financial misconduct. As part of their work, the regulators would like to understand how any changes could be tailored to specific categories of firms to ensure any changes are proportionate.</p> <p>The discussion paper closed on 30 September 2021. The FCA intends to consult on more detailed proposals in Q1 2022, followed by a policy statement in Q3 2022.</p>	Q1 2022	Red



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4 | Real estate, planning and construction

Real estate, planning and construction

Key developments in Q4 2021

- Consultation announced on residential leaseholds within mixed use developments
- Uplift in building regulations from 15 June 2022 to improve energy efficiency in buildings, with further tightening of the regulations expected in 2025
- Further amendments to the Building Safety Bill are anticipated following the announcements made on 10 January 2022 to protect leaseholders from paying for cladding remediation. Developers expected to fund remediation of unsafe cladding in buildings 11-18 metres in change of Government policy. Government loan scheme scrapped

Issues	Status	Key Timing	Impact
<p>Building Safety Bill</p> <p>Affects: Investors, owners and developers of higher risk buildings</p>	<p>The Building Safety Bill was introduced to Parliament on 5 July 2021 together with explanatory notes, some draft regulations and other supporting documents to assist understanding of the Bill. Since then the Department for Levelling Up, Housing & Communities and the HSE have continued to publish information on certain aspects of the Bill which will need to be implemented via secondary legislation, or formal guidance. This included a number of fact sheets, further draft regulations, Gateways 2 and 3, the HSE approach to safety cases and an overview of the golden thread policy.</p> <p>The Bill has completed the Committee stage and is due for its report stage and third reading on a date to be fixed. Royal Assent is expected between April – June 2022. Once Royal Assent is achieved some of the provisions are intended to be implemented in the first 12 months with the majority to follow within 12-18 months of Royal Assent. The provisions dealing with the extension of limitation periods (see below) are expected to come into effect 2 months after Royal Assent.</p> <p>The Building Safety Bill and associated legislation will introduce a new more stringent regulatory framework for higher-risk buildings, which are buildings of over 18 metres in height (or 7 storeys) in England and which contain two or more residential units, a care home or hospital. The Welsh Government is given powers to vary the scope and application of the regime for buildings in Wales.</p> <p>The Bill proposes to extend the time limits to bring claims under the Defective Premises Act 1972 by extending the limitation period from 6 to 15 years, which is intended to apply retrospectively. Separately the Bill will extend limitation under s 38 of the Building Act 1984 for breach of Building Regulations to 15 years.</p> <p>The Bill will also strengthen the Regulatory Reform (Fire Safety) Order 2005, drive competency improvements throughout the industry and improve regulation of construction products.</p>	<p>April – June 2022</p>	<p>Red</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Building Safety Bill (cont'd)</p> <p>Affects: Investors, owners and developers of higher risk buildings</p>	<p>Amendments to the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) mean that Fire Safety Statements will be required in the planning process from 1 August 2021 for higher-risk buildings in England.</p> <p>Further changes to the Building Safety Bill are anticipated following the Government's announcements on 10 January 2022 that leaseholders will not need to pay for remediation of cladding defects and will be protected from forfeiture and eviction due to historic fire safety costs.</p> <p>Government also announced that developers will now be required to make public commitments to financial contributions in this year and in subsequent years to a dedicated fund to cover the full outstanding cost to remediate unsafe cladding on 11 – 18 metre residential buildings (in place of a proposed government backed loan scheme). A plan of action is to be developed with Government by early March 2022, failing which a range of measures are threatened including imposition of a legal solution. There are suggestions that the Government will introduce a retrospective 30 year limitation period for claims under the Defective Premises Act 1972 which would amount to significant increase in developer liability.</p> <p>See: Building Safety Bill - GOV.UK (www.gov.uk) See: Letter from the DLUHC Secretary of State to the residential property developer industry (publishing.service.gov.uk)</p>	<p>March 2022</p>	<p>Red</p>
<p>Fire Safety Act 2021</p> <p>Affects: Investors, owners, managers and developers of residential buildings</p>	<p>The Fire Safety Act 2021 received Royal Assent on 29 April 2021.</p> <p>The Fire Safety Act clarifies at section 1 that the Regulatory Reform (Fire Safety) Order 2005 applies to the structure, external walls (including balconies and windows) and flat entrance doors in buildings which contain two or more domestic buildings. This means that 'Responsible Persons' (usually the managing agent or landlord) will need to ensure that fire risk assessments include fire safety risks for these parts of a building .</p> <p>Section 1 will come into force on a date to be determined by the Secretary of State for England but came into force in Wales on 1 October 2021.</p> <p>See: Fire Safety: where have we got to? (taylorwessing.com)</p>	<p>TBC</p>	<p>Red</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Residential Property Developer Tax (RPDT) Affects: large residential property developers	The rate of the RPDT to be introduced from 1 April 2022 has been confirmed at 4% on developers' profits derived from UK residential development which exceed £25m per annum. For further details see section 5, Tax.	1 April 2022	Red
Land Control Affects: all those with options	The Ministry of Housing Communities and Government has published a call for evidence on the government's proposals to improve the transparency of contractual mechanisms, such as land options, used to exercise control over land. The Government hopes to gain a better understanding of the sort of arrangements that exist. The Government's particular focus is on options, rights of pre-emption and conditional contracts, where it is consulting on proposals to make key information about these type of contracts over development land disclosable. Developers and beneficiaries of such arrangements may have concerns about the public disclosure of what may be quite detailed and commercially sensitive information. If the proposals go ahead, it could mean that additional compliance costs are incurred, increasing further if the parties wish to keep specific terms of the contract confidential by exempting them from the public land register held by HMLR.	Consultation closed on 30 October 2020 MHCLG response awaited	Amber
Planning For the Future – White Paper Affects: investors and developers	Government published its White Paper – Planning for the Future on 6 August 2020. Key proposals include: <ul style="list-style-type: none"> Local plans are to be simplified and 3 categories of land to be identified (growth, renewal and protect) Greater Digitisation to simplify general population engagement Emphasis on Sustainability s106 and Community Infrastructure levy to be replaced by a national single infrastructure levy. 	Consultation closed on 30 October 2020 MHCLG response awaited	Amber
Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 Affects: all	Core changes announced by Government include the recalibration of the classification of uses of property. Classes A, B1 and D1 applicable to retail, office and non-residential institutions and assembly and leisure uses respectively, are removed and new use classes introduced in their place. Campaign group, Rights: Community: Action (RCA) had appealed against the permitted development rules but that appeal has now been lost and the changes to the use classes system will remain.	1 September 2020	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>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.</p> <p>The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, introduced a phased approach to compliance, but by 1 April 2023 every commercial property will need to meet the minimal level in order to continue to be let.</p> <p>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.</p> <p>From 1 April 2019, the 'no cost to landlord' principle does not apply to energy efficiency works at domestic properties. Landlords are now required to fund works required under the regulations up to a cost of £3,500.</p> <p>From 1 April 2020, domestic landlords with private tenants may not let or renew a letting of a property with an Energy Performance Certificate (EPC) rating of F or G. The Energy Efficiency (Private Rented Property for England and Wales) Regulations 2015 ensure that from 1 April 2018, all privately rented properties are captured, regardless of whether a new lease (or a lease renewal) is being completed.</p> <p>From 1 April 2023, commercial landlords will be affected by an extension of the prohibition on new (or renewal) lettings to properties with an Energy Performance Certificate (EPC) rating of F or G. The regulations ensure that from 1 April 2018, all properties will be captured, regardless of whether a tenant is already in occupation.</p>	<p>The next key date is 1 April 2023</p>	<p>Red</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Future Homes Standard and Future Buildings Standard</p> <p>Affects: developers, owners and occupiers and the construction supply chain</p>	<p>Changes to the Building Regulations to introduce interim uplifts to standards in Part L of the Building Regulations (Conservation of fuel and power) and changes to Part F (Ventilation) in England for new dwellings and new buildings (other than dwellings) were introduced on 15 December 2021.</p> <p>The changes also will introduce an updated Approved Document O in England to mitigate overheating in new residential buildings.</p> <p>These changes follow the consultation on the Future Homes Standard and Future Buildings Standard and will provide an uplift in building regulations to improve energy efficiency. Further tightening of the regulations is expected when the Future Homes Standard and Future Buildings Standard are introduced in 2025; and further consultation around that is anticipated in 2023.</p> <p>The amended Building Regulations and updated Approved Document L, updated Approved Document F and Approved Document O will come into force on 15 June 2022.</p> <p>The Building Regulations etc. (Amendment) (England) Regulations 2021 (legislation.gov.uk) Approved Document L, Conservation of fuel and power, Volume 1: Dwellings (publishing.service.gov.uk) Approved Document L, Conservation of fuel and power, Volume 2: Buildings other than dwellings (publishing.service.gov.uk) Approved Document F: Volume 1 applies to dwellings (publishing.service.gov.uk) Approved Document F: Volume 2 applies to buildings other than dwellings (publishing.service.gov.uk) Overheating: Approved Document O - GOV.UK (www.gov.uk)</p>	15 June 2022	Amber
<p>New Homes Quality Code</p> <p>Affects: developers of new residential homes</p>	<p>The New Homes Quality Code was published on 17 December 2021 and seeks to introduce a new code of practice to raise standards for the buying and selling of new homes and to protect customers.</p> <p>The Code will require the registration of developers with the New Homes Quality Board by 31 December 2022 and a commitment to adopt and agree to follow the New Homes Quality Code and to be subject to a New Homes Ombudsman Scheme. Failure to meet the required standards can result in a range of sanctions, including removal from the register of Registered Developers.</p> <p>The Code is intended to apply to all developers in Great Britain and apply in England, Scotland and Wales; and ultimately is intended to apply on a UK wide basis.</p>	January – December 2022	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>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. A Consultation on how this target might be met closed on 9 June 2021. The proposals include:</p> <ul style="list-style-type: none"> ▪ A requirement that all let commercial property should have a valid EPC in place at all times by 2025 (thereby bringing many more commercial properties into the ambit of the MEES Regulations) ▪ An interim minimum energy efficiency standard of an EPC rating of C by 2027. ▪ A combined exemptions and compliance database to facilitate enforcement. ▪ Restrictions on both letting agents and online property platforms to require them only to advertise and let properties that are compliant with the MEES Regulations. <p>See: Consultation</p>	<p>Consultation closed 9 June 2021</p> <p>Response awaited.</p>	<p>Amber</p>
<p>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.</p> <p>See: Consultation and the MEES related one in the item above</p>	<p>Consultation closed 9 June 2021</p> <p>Response awaited.</p>	<p>Amber</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Electric Vehicle Charging Consultation</p> <p>Affects: property owners, managers and investors</p>	<p>The Government responded to the EV Charging Consultation on 22 November 2021. On 15 December, the Government published new Building Regulations and Statutory Guidance in Approved Document S dealing with installation of EV charging points. The Regulations and Approved Document S will come into effect on 15 June 2022.</p> <p>In summary, the Regulations require:</p> <ul style="list-style-type: none"> ▪ Every new home, including those created from a change of use, with associated parking within the site boundary, will need to have an EV charge point; ▪ Residential buildings undergoing major renovation, which will have more than 10 parking spaces within the site boundary after the renovation is complete, will need to have at least one EV charge point for each dwelling with associated parking within the site boundary, and cable routes in all spaces without charge points; ▪ All new non-residential buildings, with more than 10 parking spaces within the site boundary of the building, will need to have at least one EV charge point; and cable routes for one in five of the total number of spaces; ▪ All non-residential buildings, undergoing a major renovation, which will have more than 10 parking spaces within the site boundary after the renovation is complete, will need a minimum of one EV charge point and in addition to this, cable routes for one in five spaces. <p>New policy is expected for EV charge points for existing non-residential buildings where there are more than 20 parking spaces.</p> <p>The Building Regulations etc. (Amendment) (England) (No. 2) Regulations 2021 (legislation.gov.uk)</p> <p>Infrastructure for charging electric vehicles: Approved Document S - GOV.UK (www.gov.uk)</p>	<p>15 June 2022</p>	<p>Amber</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Unfair Practices in the Leasehold Market – MHCLG Review and the Law Commission's Residential Leasehold and Commonhold Project</p> <p>Affects: Residential and mixed-use property owners, managers and investors</p>	<p>Following the Law Commission's review of the Leasehold market, on 11 January 2022 Government announced a new consultation for homeowners and the housing industry to give their views on proposals from the Department for Levelling Up, Housing and Communities to allow more leaseholders in mixed-use buildings to take control and ownership of their properties. Previously where commercial space equalled 25% or more of the total floorspace, residential leaseholders were unable to exercise the right to manage or buy the building outright. The proposals increase this limit to 50%, which whilst enabling leaseholders to have more control over how shared facilities are run and the final say on building maintenance costs may create issues for commercial landlords seeking to run a mixed use estate.</p> <p>Other proposals are designed to make it cheaper for leaseholders to buy the building, creating a mandatory buy back for the commercial owner of the commercial spaces. Together with the other Government proposals (set out below) around the abolition of 'marriage value' and the introduction of an online calculator with prescribed calculation rates) leaseholders may find it far more attractive to enfranchise.</p> <p>Government is also seeking views from Shared Ownership providers and tenants on the use of commonhold and how decision making could work going forward.</p> <p>Government previously announced that legislation would be brought forward to implement recommendations of the Law Commission to:</p> <ul style="list-style-type: none"> Remove the marriage value concept from the calculation of premiums. Introduce an online calculator to allow leaseholders to calculate the cost of buying their freehold or extending their lease. Ensure that the existing proposal for zero ground rents for new leasehold properties be expanded to include leasehold retirement properties. Establish a Commonhold Council to reinvigorate commonhold. <p>The announcement did not give a timetable for when these additional proposals would be implemented, and there was no explanation of how valuations would be calculated following the removal of the marriage value concept.</p> <p>Finally on 14 September 2021 the Leasehold Reform (Ground Rent) Bill completed its stages in the House of Lords. The date for its second reading in the House of Commons is yet to be announced. Once implemented the new legislation will set ground rents of new residential long leases (21 years and over) at a peppercorn. There are a limited number of exemptions for social housing, shared ownership and sharia type arrangements where a leasehold structure is used for financing purposes. In addition, retirement home leases are exempted until 31 March 2023.</p> <p>See further: What does the Leasehold Reform (Ground Rent) Bill mean for leaseholders?</p>	<p>Consultation closes on 22 February 2022</p> <p>Second reading of the bill in the House of Commons awaited</p>	<p>Amber</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Coronavirus COVID-19 temporary statutory interventions for Real Estate	<ul style="list-style-type: none"> ▪ Landlords cannot forfeit for non-payment of rent until 25 March 2022 (with a wide interpretation given to rent to include such items as service charge and insurance). ▪ Use of the Commercial Rent Arrears Recovery procedure only be permitted where there is at least 554 days worth of outstanding rent. ▪ New legislation will be introduced to ringfence outstanding unpaid rent that has built up when a business has had to remain closed during the pandemic. The legislation will help tenants and landlords work together to come to an agreement on the terms of a repayment plan. Where an agreement cannot be made, the legislation will introduce a binding arbitration process to enable both parties to come to a legally binding agreement. ▪ On 30 September 2021, the temporary restrictions on statutory demands and winding-up petitions under CIGA 2020 expired. However, new temporary targeted restrictions for winding up petitions in relation to small businesses and commercial tenants, which are presented between 1 October 2021 and 31 March 2022, are set out in the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Schedule 10) (No. 2) Regulations 2021 (in force 1 October 2021). See section 2, General corporate section for further information. ▪ Residential mortgage holidays of 3 months for both owner occupied and buy to let owners have now expired. 	Ongoing	Red
Draft registration of overseas entities bill Affects: Overseas owners of UK property	<p>In 2016, the government confirmed that it will go ahead with plans for a new register of overseas legal entities owning UK real estate, disclosing their beneficial owners. On 20 May 2019, the House of Commons and House of Lords Joint Committee on the draft Registration of Overseas Entities Bill published a report, making recommendations aimed at improving the draft legislation.</p> <p>Some of the more important recommendations include lowering the currently-proposed 25% ownership and voting thresholds for the definition of a registrable beneficial owner – and a suggestion that this should be extended to the PSC regime. The report also recommends a specific requirement to update the register of overseas beneficial ownership before making any disposition of UK land, and the introduction of civil penalties for overseas entities that breach their obligations under the draft Bill, which could be backed up by criminal sanctions for non-payment.</p> <p>Taylor Wessing has been liaising with BEIS in relation to the practical steps needed to implement the Register of Overseas Beneficial Ownership.</p> <p>See: Joint Committee on the Draft Registration of Overseas Entities Bill</p>	Draft legislation published in July 2018. It was previously anticipated that the register would go live by early 2021. Update awaited.	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Electronic Communications Code – Product Security and Telecommunications Bill	<p>The Bill amends to the Electronic Communications Code (Code) with the aim of fostering more collaborative and quicker negotiations between mobile network operators and landowners with regards to installing, using, or upgrading telecoms infrastructure. These legal reforms ‘support the government’s ambitious plans to achieve the nationwide rollout of future-proof gigabit-capable broadband and 5G networks as soon as possible’. The measures:</p> <ul style="list-style-type: none"> ▪ encourage collaborative negotiations for agreeing new - and renewing expired - agreements by introducing a requirement for telecoms operators to consider the use of Alternative Dispute Resolution (ADR) rather than legal proceedings in cases where there are difficulties in agreeing terms. Operators will also be required to explain the availability of ADR as an option in their notices to landowners ▪ introduce limited rights for operators to upgrade and share apparatus installed prior to the reforms to the Code made in 2017 in specific circumstances where there will be no impact on private land ▪ introduce provisions ensuring expired agreements are renewed consistently, and on similar terms to those for new agreements, throughout the whole UK, and allowing operators who already have apparatus installed under an expired agreement to either renew that agreement, or request a new one, and ▪ introduce new provisions to enable operators to obtain Code rights over certain types of land quickly in circumstances where a landowner does not respond to repeated requests for Code rights. <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>	Second reading of the bill in the House of Commons awaited	Amber

The logo for TaylorWessing, consisting of the company name in a teal, sans-serif font.

TaylorWessing

The section header '5 | Tax' in white, bold, sans-serif font, preceded by a vertical teal bar.

5 | Tax

Tax

Key developments in Q4 2021

- At Autumn Budget (27 October 2021) the government announced full details of the rate and design of the Residential Property Developer Tax, and confirmed that targeted changes to the UK REITs rules would be enacted
- The Finance Bill 2022 was first published on 4 November 2021, containing legislation for the Residential Property Developer Tax and changes to the UK REITs rules

Issues	Status	Key Timing	Impact
<p>Legislation for the new Residential Property Developer Tax</p> <p>Affects: large residential property developers</p>	<p>In February 2021 the government announced that a new tax, the Residential Property Developer Tax (RPDT), would be introduced from 1 April 2022 to help fund cladding remediation works on high rise buildings.</p> <p>Following a consultation on the policy design of the RPDT, and a technical consultation on draft legislation, the Finance Bill 2022 (containing the RPDT legislation) has now been published. Key features include:</p> <ul style="list-style-type: none"> Commencement: RPDT applies to profits arising from residential property development in accounting periods ending on or after 1 April 2022. Duration: the tax is intended to be time-limited, aiming to raise £2 billion over 10 years (although no 'sunset' clause is included). Scope: RPDT applies to the largest corporates profiting from UK residential property development. Tax base: the RPDT is effectively a corporation tax 'surcharge', with profits from UK residential property development activities calculated in line with existing corporation tax rules (but without deduction for interest and other funding costs). Post-commencement RPDT losses may be carried forward and set against RPDT profits. Annual allowance: a group-wide allowance of £25 million applies, although unused allowance may not be carried back or forward Rate: 4%. Definition of 'residential property': largely replicates current statutory definitions but extended to include future residential use (ie where planning permission has been sought or granted); communal dwellings such as hotels, care homes and student accommodation are excluded from RPDT but retirement homes are not. Development activities: the legislation provides a non-exhaustive list of activities including dealing, designing and constructing, but also seeking planning permission, marketing and managing; the build-to-rent sector is out of scope (but to be kept under review). Anti-avoidance: rules on anti-forestalling are included. <p>A response to the consultation on the policy design of the RPDT was also published at Autumn Budget 2021.</p>	<p>Royal Assent of the Finance Bill 2022 is expected within the next few months</p> <p>Legislation comes into force on 1 April 2022</p>	<p>Red</p>

Tax (continued)

Issues	Status	Key Timing	Impact
<p>Legislation for targeted changes to UK REITs rules, and the wider review of the UK funds regime</p> <p>Affects: UK REITs</p>	<p>Following a consultation in December 2020, and draft legislation issued in July 2021, the Finance Bill 2022 has now been published. This contains 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 listing requirement for REITs that are at least 70% owned by institutional investors, and including tracing rules to cater for indirect ownership by institutional investors. ▪ Amending the rules for determining an 'overseas equivalent of a UK REIT' for the modified close company test for institutional investor-owned REITs, to broaden its scope. ▪ Relaxing the 'holder of excessive rights' rule for shareholders entitled to receive distributions from a REIT without withholding. ▪ Simplifying the 'balance of business' test so that, if group accounts show that property rental business profits and assets comprise at least 80% of group totals, a REIT will not need to prepare additional statements required to meet the full test, and disregarding non-rental profits from activities undertaken to comply with certain planning obligations. <p>The government is also considering further changes to the UK REITs rules as part of a wider review of the UK funds regime. In January 2021 a call for input was published which (among other things) sought views on the barriers and complexities that exist within the UK REITs regime. Proposals under consideration include:</p> <ul style="list-style-type: none"> ▪ Abolishing the REIT interest cover test. ▪ Modernising the 'three-year development' rule. ▪ Removing the requirement for a REIT to hold at least three properties. ▪ Mitigating tax inefficiencies that arise where overseas property is held by a REIT. <p>A government response to the call for input is awaited (at Autumn Budget 2021 this was promised 'in the coming months').</p>	<p>The targeted changes to the UK REITs rules take effect from 1 April 2022</p>	<p>Red</p>

Tax (continued)

Issues	Status	Key Timing	Impact
<p>Finance Act 2021 – Super-deduction and special rate first year allowances for capital allowances</p> <p>Affects: REITs investing in capital expenditure</p>	<p>The Finance Act 2021 includes a 'super-deduction' and special rate first year allowance for companies investing in qualifying new plant and machinery between 1 April 2021 and 31 March 2023.</p> <p>Qualifying expenditure on main rate assets that would ordinarily qualify for 18% writing down allowances will be relieved by a super-deduction of 130%. Qualifying expenditure on special rate assets that would ordinarily qualify for 6% writing down allowances will be relieved by a 50% special rate first year allowance.</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 2021 and 31 March 2023</p>	<p>Amber</p>



TaylorWessing

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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.

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