

Proposed Changes to the UK Corporate Governance Code

On 24 May 2023, the UK Financial Reporting Council (the “**FRC**”) launched a **public consultation** on the proposed revisions to the UK Corporate Governance Code (the “**Code**”). The Code sets out standards of good practice for listed companies. Those companies with a premium listing on the London Stock Exchange and the main securities market of Euronext Dublin must state in their annual report whether or not they have complied with the Code and if not, provide details of the provisions which were not complied with and the reasons for non-compliance. The aim of the FRC’s proposed reforms is to restore trust in audit and corporate governance and ensure the quality and accuracy of the information being reported by companies.

Key Changes

The FRC is not proposing to change the structure of the Code, but rather to amend certain principles to achieve increased and more targeted disclosures. The Code will continue to operate on a “comply or explain” basis. The following is a summary of some of the proposed changes:

- With regard to reporting on governance activity, the FRC proposes to introduce a new principle which sets out the expectation that companies should focus on outcomes as a means of demonstrating the impact of their corporate governance practices.
- In response to increased industry concern about the number of board positions held by executive and non-executive directors of listed companies in the UK, the FRC has proposed measures to strengthen existing principles of the Code to ensure that those in leadership positions have sufficient time to devote to their responsibilities. While the FRC does not propose to specify the maximum number of appointments a director may hold, it does plan to introduce specifications that the annual board performance review should consider each directors commitments to other boards, information on these other commitments and how the directors propose to manage their time.
- The importance of diversity at executive management and board level is already highlighted in the Code but the FRC proposes to strengthen existing diversity principles by amending these principles to include a reference to “inclusion”. In order to provide greater clarity on a company’s approach to executive appointments and succession planning, the FRC proposes to supplement certain provisions with additional reporting requirements on the activities of the nomination committee.
- In the 2022 consultation paper “**Restoring trust in audit and corporate governance**”, the UK Government discussed plans to introduce an Audit and Assurance Policy (“**AAP**”) for certain UK companies that fell within the new “public interest entity” definition. While the requirements of the AAP will be set out in regulations and will only apply to certain UK companies, the FRC has taken the view that all companies reporting against the Code should consider producing an AAP on a “comply or explain” basis. In effect, this will result in additional reporting responsibilities for the audit committee and require them to develop and maintain an AAP.
- The FRC is proposing a number of reforms which would give the audit committee a new responsibility for monitoring the integrity of narrative reporting, including sustainability reporting. These proposed reforms would also give the audit committee responsibility to describe their work on narrative reporting in the company’s annual report.
- The FRC is also proposing reforms to strengthen the Code on matters of board accountability and reporting in relation to internal controls. The proposed reforms will ask the board to declare whether they can reasonably conclude that the risk management and internal controls systems of the company have been effective throughout the reporting period and to give a basis for this declaration. Boards will also have to report on material weaknesses identified in risk management and internal controls systems.
- The FRC is proposing amendments to strengthen the links between remuneration policies and company performance in a wider sense. The proposed reforms include references to the importance of transparency with regard to directors’ remuneration, ensuring directors are not involved in setting their own remuneration and the overarching aim of ensuring that these policies reflect the company’s performance, purpose and values.

Timeline

The deadline for comments on the proposed reforms to the Code is 13 September 2023 and they aim to implement the proposed revisions by January 2025. The FRC has also confirmed that it will be revising current guidance on Audit Committees and Guidance on Board Effectiveness to align with the proposed reforms to the Code. There are also a number of engagement roundtables running from 21 June to 11 July 2023 focusing on internal controls, boards, leadership and reporting.

We will continue to monitor developments in this regard. For more information on the above, or for further guidance and insight in respect of the corporate governance of public limited companies generally, please contact Susanne McMenamin, Thomas Burke, Megan Gantly or your usual Matheson contact.

Contact



Susanne McMenamin

Partner | Corporate and Commercial
E: susanne.mcmenamin@matheson.com
T: +353 1 232 2266



Thomas Burke

Associate | Corporate and Commercial
E: thomas.burke@matheson.com
T: +353 1 232 3762



Megan Gantly

Solicitor | Corporate and Commercial
E: megan.gantly@matheson.com
T: +353 1 232 3785