TaylorWessing

UK REIT Horizon Scanner Q2 2021

Key Issues

Key issues coming up for UK Main Market REITs in corporate, financial regulatory, planning, real estate, securities law and regulation and tax[1] in England (including retained EU law[2]).

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

Impact: urgency/impact rating for REITs admitted to London Stock Exchange Main Market (including the Specialist Fund Segment[3])

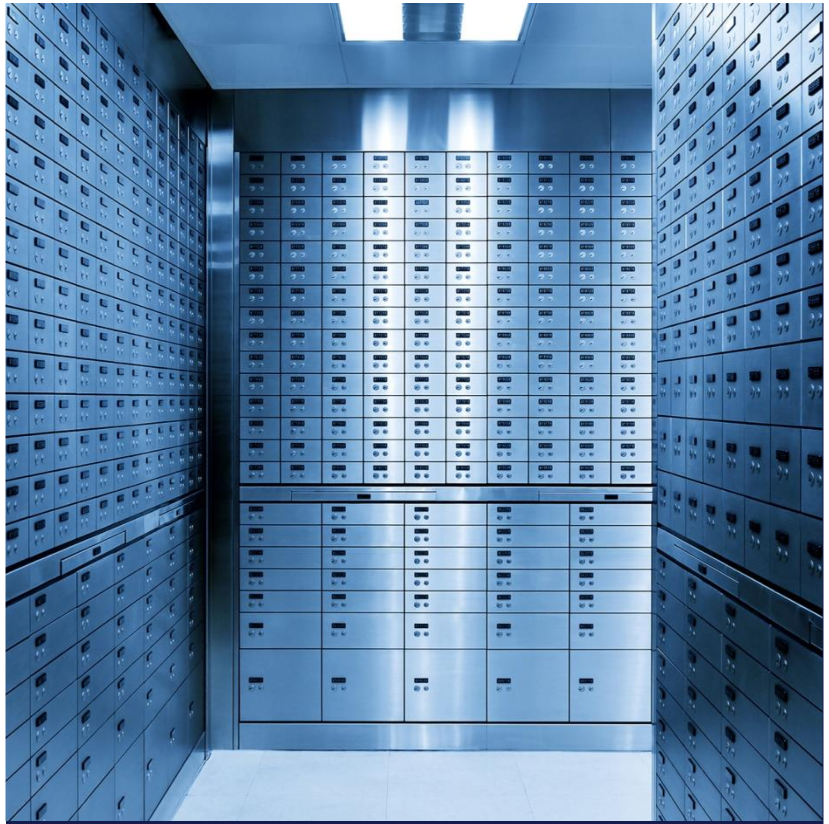
- Red – likely to have material impact
- Amber – limited impact or await developments
- Green – minor or no direct impact

Published as at: 31 March 2021

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 Q1 2021

- Lord Hill's UK Listing Review report was published and recommends material reforms to the Listing Rules and prospectus regime
- The government announced a new Taskforce on Innovation, Growth and Regulatory Reform that could impact corporate reporting, capital markets and start-up investment
- The Investment Association published its 2021 shareholder priorities for listed companies, outlining IVIS' approach to assessing companies against investor expectations
- The Chartered Governance Institute (with CLLS and Martin Moore QC) and the AIC published Covid-19 guidance on holding AGMs and other meetings after 30 March (when the Corporate Governance and Insolvency Act 2020 temporary measures ended)
- The Chartered Governance Institute published the findings of its review and report on the effectiveness of independent board evaluation in the UK listed sector

Issues	Status	Key Timing	Impact
Brexit: general legislation Affects: listed companies	On 30 December 2020, the Trade and Cooperation Agreement (TCA) came into effect. It mainly covers UK/ EU trade in goods and contains very little on financial services, where much of the no-deal Brexit planning businesses have been doing is still needed. Alongside the TCA 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 (not yet agreed). 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: Glass Lewis executive remuneration guidance Affects: listed companies	On 22 January 2021, Glass Lewis published guidance on executive compensation during the pandemic. It covers dividend policies, impacted share prices, employee actions (layoffs, furloughs or salary cuts) and stakeholder perspectives. It expects board decisions on 2020/21 executive remuneration to reflect overall lower pay outcomes compared with the previous year for companies affected by the pandemic.	2020/ 2021	**Green**

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
COVID-19: guidance on 2021 AGMs and other meetings Affects: listed companies	The temporary measures on AGMs and other general meetings contained in the Corporate Governance and Insolvency Act 2020 (CIGA) and regulations made under it expired on 30 March 2021. On 29 March 2021, the Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (Step Regulations) came into force. Step 1 restrictions apply until at least 12 April 2021 and permit certain physical gatherings including those "reasonably necessary for work purposes". It is unclear if this includes shareholder meetings. See further "General Corporate" below. On 24 February 2021, the Chartered Governance Institute, City of London Law Society (CLLS) and Martin Moore QC published guidance on AGMs and other meetings after 30 March 2021 (available to members and free subscribers to the Institute's website). Key points are: • The guidance predated the Step Regulations but considers that, based on the government's 22 February 2021 roadmap, general meetings need to be held on a closed basis until at least 17 May 2021. Among other things, it covers how a quorate meeting may be held where shareholders are not able to attend (for example, attendance of a director and secretary whose presence is "reasonably necessary for work purposes"). Companies cannot exclude or limit shareholder numbers, but can strongly recommend non-attendance. • Meetings need to be reactive to changing situations and restrictions, and social distancing/ venue capacity planning will be needed. Any changes to meeting format should be announced via the company's website or an RIS. • Hybrid meetings are permitted if there is nothing in a company's articles preventing them (even if not expressly permitted). However, specific provisions should be included in the articles to ensure the meeting procedure is clear. • Shareholders should be offered as much electronic engagement as possible to encourage engagement despite physical absence. • It contains good practice recommendations and sample pandemic wording for AGM circulars. In February 2021, the AIC published guidance on holding AGMs after 30 March 2021 (available to members on its website).	During the pandemic	Amber
COVID-19: FCA and FRC joint statement on temporary reliefs Affects: listed companies	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. • A three month extension for filing accounts with Companies House – this expires on 5 April; after that an application process applies. See also "General Corporate" below. • A reminder of MAR disclosure obligations and continuing assessment of what constitutes inside information in light of the pandemic. At the same time the FCA updated its Q&A on delaying annual company accounts and half yearly financial reports during the pandemic.	During the pandemic	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
ESG: new mandatory climate-change reporting Affects: premium listed companies	On 21 December 2020, the FCA announced new Listing Rules requirements for premium listed companies to report against the Financial Stability Board's (FSB) Task Force on Climate-related Financial Disclosures' (TCFD) recommendations. Changes were implemented by FCA Instrument 2020/75, take effect for accounting periods beginning on or after 1 January 2021 and include (among other things): • A statement in the annual financial reports of premium listed commercial companies on whether disclosures are consistent with the TCFD recommendations; if not or if the disclosures are in a different document, why not or where the disclosures can be found. • An overriding principle to consider whether disclosures give sufficient detail to enable readers to assess the company's exposure and approach to climate related issues. • An expectation of disclosure except where the company faces "transitional challenges in obtaining relevant data or embedding relevant modelling or analytical capabilities". This is particularly relevant to asset managers as supplementary TCFD guidance sets certain expectations regarding disclosures to clients. See "General Corporate" below for proposals for mandatory TCFD reporting affecting a wider range of organisations. At the same time a new Technical Note on ESG reporting took effect, covering disclosures under the Listing Rules, DTRs, UK MAR and the UK Prospectus Regulation. Key points are: • It flags specific obligations to comply or explain against the Corporate Governance Code and TCFD recommendations. • Guidance on including ESG and climate related matters in prospectuses to. • Guidance on what ESG and climate related information to include in annual and interim management reports. The FRC Financial Reporting Lab's March 2021 newsletter states that the Lab will examine 2021 disclosures by listed companies against the TCFD recommendations.	Financial years beginning on or after 1 January 2021	**Amber**
ESG: Parker Review on ethnic diversity on boards Affects: FTSE 350	The recommendations of the Parker Review Committee final report into ethnic diversity of UK boards included a target for at least one director of colour on each FTSE 100 board by 2021 and each FTSE 250 board by 2024. Mechanisms to identify, develop and promote people of colour were encouraged, to ensure a pipeline of board capable candidates and that their managerial and executive ranks appropriately reflect the importance of diversity to their organisation. Voluntary adoption of the measures was recommended but a mandatory basis may be endorsed if there is insufficient progress. The Committee's 12 March 2021 update report and annex shows that approximately 75% have met the target. FTSE 250 companies will be surveyed by the end of 2021.	2021 and 2024	**Amber**

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
ESG: Hampton-Alexander Review on gender balance in FTSE leadership Affects: FTSE 350	On 24 February 2021, the final Hampton-Alexander Review report on gender balance in FTSE leadership was published. The Review originally set a target of 33% female representation on FTSE 350 boards by 2020. The report found that as at 11 January 2021 women held approx. 36% of FTSE 100 board positions and they held approx. 33% of FTSE 250 board positions (but 32 FTSE 100 companies and 139 FTSE 250 companies had not yet achieved the 33% target). Across the FTSE 350, there were only 39 female chairs, 17 female CEOs and 76 female executive directors (being approx. 12% of all FTSE 350 executive directors). 16 FTSE 350 companies still had only one woman on the board (but there are no all-male boards left). New recommendations for 2021 onwards include: • Best practice that a woman be in at least one of the four roles of chair, CEO, CFO and SID (senior independent director). • Publication of a board and executive committee gender pay gap analysis. • An annual review by the government, Investment Association and other investor groups of any voting sanctions applied to listed companies that fail to meet gender targets they have set.	2021 onwards	**Amber**
European Single Electronic Format (ESEF) reporting Affects: Main Market and Specialist Funds Segment	The Transparency Directive and DTR 4.1.14R require that all annual reports for companies on a UK regulated market such as the Main Market be in single electronic reporting format (using XHTML), for financial years beginning on or after 1 January 2020. On 5 November 2020, the FCA confirmed postponement of requirements for publishing in XHTML format and tagging to financial years starting on or after 1 January 2021, for publication from 1 January 2022 (and financial years starting on or after 1 January 2023, for publication from 1 January 2024, for requirements around tagging notes to the financial statements). Issuers can publish and file reports in ESEF format voluntarily in the meantime (and the FCA upgraded its National Storage Mechanism in this respect on 25 January 2021). For more background information, see previous editions of the REIT Horizon Scanner.	Financial years beginning on or after 1 January 2021 (for publication from 1 January 2022)	**Amber**
Financial Services Bill 2019-2021 Affects: listed companies	On 21 October 2020, the Financial Services Bill 2019-2021 was published. It is currently making its way through Parliament and is expected to receive Royal Assent in Spring/Summer 2021. It proposes various amendments to UK legislation including: • The Bill clarifies that both issuers and those acting on their behalf must keep insider lists (issuers would no longer be able to 'delegate' the task to professional advisers). • The Bill would amend the period within which an issuer must notify the market of a PDMR transaction to two working days from the date the issuer is notified (from three business days from the transaction date). • The maximum penalties for criminal insider dealing and misleading statements (under the Criminal Justice Act 1993 and Financial Services Act 2012 respectively) would be increased to 10 years' imprisonment (from seven years).	Spring/ Summer 2021	**Amber**

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
Investment Association 2021 shareholder priorities Affects: listed companies	On 18 January 2021, the IA published a paper on its 2021 shareholder priorities for listed companies. It looks at the approach IVIS will take to assess companies with year ends on or after 31 December 2020 against investor expectations for 2021. Among other things: • Climate change - IVIS will amber top companies in a "high-risk sector" (financials, energy, transportation, materials and buildings, agriculture, food and forest products, airlines, and travel and tourism) that do not address all four pillars of the TCFD recommendations. • Stakeholder engagement - IVIS expects quality disclosures on engaging, communicating and supporting stakeholders during the pandemic, including how the board reflected stakeholder views in key decision making. • Diversity - IVIS will amber top FTSE 350 companies that do not disclose their board's ethnic diversity or the credible action plan they have in place. It will red top FTSE 350 companies and amber top FTSE SmallCap companies where female board representation is 30% or less or where female representation on executive committees/ those committee's direct reports is 25% or less. In February 2021, the IA also published its Good Stewardship Guide 2021.	2021	**Amber**

Consultation on reforms to UK listing regime
 	
Affects: listed companies
	On 3 March 2021, Lord Hill's UK Listing Review report was published (following HM Treasury's 19 November 2020 to 5 January 2021 consultation). It urges Listing Rules and prospectus regime reforms to ensure market attractiveness after Brexit. Key recommendations are:
	
	• A reduced 15% (from 25%) public free float requirement and allowing use of alternative, objective measures to demonstrate liquidity.
	• A new category in the premium listing segment to permit dual class share structures (shares of different classes carrying different rights, e.g. zero or weighted voting rights), with conditions to be satisfied to safeguard investors and maintain corporate governance standards.
	• A repositioned and renamed standard listing segment, possibly called the "Main Segment".
	• A fundamental review of the prospectus regime, including:
	  • possibly having separate regimes for offering securities to the public and for seeking admission to a regulated market;
	  • different prospectus exemption thresholds for different types of transaction;
	  • no or "slimmed-down" prospectus requirements for new capital raises by existing listed companies; and
	  • possible recognition of prospectuses drawn up in other jurisdictions.
	• A review to have a more efficient listing process, including making it easier to include forward-looking information in prospectuses.
	• More liberal rules for SPACs (special purpose acquisition companies), with safeguards to protect investors.
	• A short annual report from the Chancellor on the "state of the City", on annual progress in improving the UK’s competitive position.
	
	A government response is awaited. The FCA will publish a consultation paper on Listing Rule changes by the summer, with a view to making rules by late 2021. On 31 March 2021, the FCA also confirmed that it will consult on Listing Rule amendments to strengthen investor protections in special purpose acquisition companies (SPACs).
		Late 2021	**Red**

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
New taskforce to examine regulatory reform	On 2 February 2021, the government announced a new Taskforce on Innovation, Growth and Regulatory Reform to look at regulatory reform to stimulate business dynamism and innovation, and ensure the UK's markets are open and competitive. Its work could impact corporate reporting, start-up investment and UK capital markets. It is due to report back in April 2021.	April 2021	Amber
FRC guidance - Corporate Governance Code Affects: premium listings	On 26 February 2021, the FRC published guidance on how companies should report against the 2018 UK Corporate Governance Code.	Ongoing	Green
New FCA shareholdings notification portal Affects: listed companies	On 22 March 2021, the FCA's new portal for notifying major shareholdings under DTR 5 went live. Previously investors sent in Form TR-1 by email; now they complete an electronic Form TR-1 in the FCA's Electronic Submission System.	Ongoing	Green
Executive pay and short-termism research Affects: listed companies	Following publication of the July 2019 PwC research paper into share buy backs, BEIS announced that it would carry out further research into the potential for a direct link (rather than through buybacks) between executive pay targets and investment levels in companies, and the extent to which pay incentives and performance targets can result in short-termist executive decision-making. An update is awaited.	Ongoing	Green
Corporate governance consultations Affects: listed companies	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 include (among other things): • a voluntary code of practice (on an "apply or explain" basis) 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. 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. 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.	Ongoing	Amber

Equity capital markets (continued)

Looking back

Issues	Status	Key Timing	Impact
Brexit: general legislation Affects: listed companies	Various statutory instruments and policy notes took effect at 11pm on 31 December 2020 ("IP completion day") under the European Union (Withdrawal Agreement) Act 2020 (EUWA). They replicate, so far as possible, the previous effects of the prospectus regime, transparency rules and listing rules and made a number of changes, including: ▪ The FCA needs to approve all prospectuses for use in the UK. ▪ Previous equivalence decisions on historical financial information in prospectuses were domesticated into UK legislation. ▪ EU-adopted IFRS can be used to prepare financial statements for transparency requirements and to prepare a prospectus.	11pm on 31 December 2020	Amber
Brexit: FCA Handbook and technical standards Affects: listed companies	Various changes to the FCA Handbook came into effect after IP completion day. The changes impacted the Prospectus Regulation Rules, Listing Rules, DTRs and MAR regime and mainly updated references to EU legislation, UK law which related or referred to the EU, EU institutions and concepts, and the EEA. See further previous editions of our REIT Horizon Scanner. The FCA's approach to EU non-legislative materials is contained in a note. Non-legislative materials published by European Supervisory Authorities (including ESMA) include guidelines, recommendations, opinions, questions and answers documents, supervisory briefings, peer-review analyses, best practices and statements. These materials were not incorporated into English law under EUWA but since the EU law and EU-derived law to which the non-legislative material relates has largely been retained, the FCA considers that EU non-legislative material remain relevant. On 3 December 2020, the FCA published Primary Market Bulletin 32 which summarises the UK's market abuse and prospectus regimes after IP completion day. In particular: • UK MAR applies to all the financial instruments to which EU MAR applied, including those admitted to an EU regulated market. • Issuers subject to both UK MAR and EU MAR will need to make certain notifications to both the FCA and the appropriate EU authority, including for delays in disclosure of inside information, dealings in securities and buy-back or stabilisation programmes. • Prospectuses approved in an EU member state and passported into the UK before IP completion day remain valid in the UK until expiry (it is no longer possible to passport an EU-approved prospectus into the UK and UK-approved prospectuses are not valid in the EU). • The FCA may consider materials produced by the ESAs after IP completion day including where pre-IP completion day materials are updated and, where appropriate, will set out its expectations on how it should be treated. This includes, for example, ESMA Q&A on the Prospectus Regulation published after IP completion day.	1 January 2021	Amber

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2 | General corporate

UK REIT Horizon Scanner Q2 2021

General corporate

Key developments in Q1 2021

- The Chartered Governance Institute (with CLLS and Martin Moore QC) published Covid-19 guidance on holding AGMs and other meetings after 30 March (when the Corporate Governance and Insolvency Act 2020 temporary measures ended)
- GC100 is consulting on proposed legislative changes to shareholder meetings to better enable hybrid and virtual meetings
- Government is consulting on major reforms to audit and corporate governance, including (among other things) establishing the new financial regulator ARGA
- Government is consulting on proposals to expand mandatory climate reporting against the TCFD recommendations to more listed and large unlisted companies
- Government launched its new free, searchable central registry for modern slavery statements (with statements uploaded by organisations on a voluntary basis for now)

Issues	Status	Key Timing	Impact
COVID-19: Corporate Insolvency and Governance Act - meetings Affects: all companies	The temporary measures on AGMs and other general meetings contained in the Corporate Governance and Insolvency Act 2020 (CIGA) and regulations made thereunder expired on 30 March 2021. On 29 March 2021, the Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (Step Regulations) came into force. They implement steps 1-3 of the government's roadmap for easing restrictions in England. Step 1 restrictions apply until at least 12 April 2021 and permit certain physical gatherings including those "reasonably necessary for work purposes". It is unclear if this includes shareholder meetings; if not, they need to be held on a closed basis. The guidance published by the Chartered Governance Institute, City of London Law Society (CLLS) and Martin Moore QC on 24 February 2021 predated the Step Regulations but considers that, based on the government's 22 February 2021 roadmap, general meetings will need to be held on a closed basis until at least 17 May 2021. Among other things, the guidance considers how a quorate meeting may be held where shareholders are not able to attend (for example, the attendance of a director and secretary whose presence is "reasonably necessary for work purposes"). See further "Equity Capital Markets" above.	During the pandemic	**Amber**

General corporate (continued)

Issues	Status	Key Timing	Impact
COVID-19: Corporate Insolvency and Governance Act - filing deadlines Affects: all companies	On 25 March 2021, Companies House published an update reminding companies that the temporary extension of filing deadlines for various documents under CIGA ends on 5 April 2021. Thereafter, regular deadlines under relevant legislation apply (for example in relation to the confirmation statement and other event-driven filings), with an application process for a three month extension for filing annual accounts where the pandemic is cited as a factor affecting timely completion and/or audit of accounts. Companies that already extended their accounts deadline may not be eligible as the law only allows a maximum filing period of 12 months.	During the pandemic	**Amber**
COVID-19: Corporate Insolvency and Governance Act - other measures Affects: all companies	On 26 March 2021, new regulations came into force extending CIGA's suspension of liability for wrongful trading and restrictions on presenting winding-up orders until 30 June 2021. On 8 March 2021, Companies House resumed voluntary and compulsory strike-off activity. On 23 February 2021, the Equality and Human Rights Commission confirmed that organisations have an additional six months to publish 2020-21 gender pay gap metrics (it will wait until 5 October 2021 before taking enforcement action for any non-compliance). See previous editions of our REIT Horizon Scanner for more information about the temporary measures.	During the pandemic	**Amber**
COVID-19: GC100 consultation on hybrid and virtual meetings Affects: potentially all companies	On 28 January 2021, GC100 published a paper proposing legislative changes to the current format for AGMs, following events during 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. 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.	Ongoing	**Amber**

General corporate (continued)

Issues	Status	Key Timing	Impact
ESG: mandatory climate-change reporting Affects: large companies, listed companies and asset managers	On 24 March 2021, the government published a consultation on its November 2020 proposals to expand mandatory reporting against the Taskforce on Climate-related Financial Disclosures (TCFD) recommendations to a wider scope of UK listed companies (beyond premium listings), large unlisted UK companies and UK asset managers. See also "Equity Capital Markets" above. Key aspects are: • The requirements would apply to apply to all UK companies (and LLPs) currently required to produce a non-financial information statement – i.e. companies with more than 500 employees and that are either listed on a UK regulated market, are a banking or insurance company, are listed on AIM or potentially other multilateral trading facilities, or otherwise have a turnover exceeding £500m. • Disclosures would be made in the non-financial information statement of the strategic report. Reporting would be at group and individual level. The consultation details the specific disclosures required. The consultation closes on 5 May 2021. The government intends to make regulations by the end of 2021, with the new reporting requirement applicable for accounting periods starting on or after 6 April 2022. BEIS also plans to produce non-binding Q&A guidance.	5 May 2021	Amber
ESG: Modern slavery: human trafficking statement Affects: large companies	On 11 March 2021, the government launched its new free, searchable central registry for modern slavery statements. Organisations can voluntarily add their modern slavery statements online after creating an account. 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 the registry. Other measures following the Home Office's 2019 consultation on making transparency requirements and reporting processes clearer, and its September 2020 response, are awaited. On 20 April 2020, the Home Office announced that publication of a statement can be delayed by up to six months if the delay is caused by the pandemic (taking the period to 12 months in total as organisations are required to publish within six months of financial year end).	Ongoing	Amber
ESG: Gender and ethnicity pay reporting Affects: UK employers with 100 or more employees	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. A 2018 consultation suggested introducing an ethnicity pay gap reporting regime. In its 14 July 2020 response to 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. 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).	Ongoing	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact

Consultation on audit and corporate governance reform
 	
Affects: all companies
	On 18 March 2021, BEIS published a consultation paper on restoring trust in audit and corporate governance. It follows on from the recommendations of several independent reviews (including the Kingman, Brydon and CMA reviews), BEIS' 2019 audit report recommendations and major collapses such as Thomas Cook, Carillion and BHS. Key proposals include:
	
	• Giving the new regulator the Audit, Reporting and Governance Authority (ARGA) (among other things) new statutory objectives and functions, competition powers, an increased corporate reporting review function, oversight of FTSE 350 audit committees, enforcement powers for corporate reporting duties of directors, and a new power to order amendments to company reports directly rather than requiring a court order.
	
	• For directors:
	  • 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:
	  • ARGA will have responsibility for defining "realised profits" and "realised losses".
	  • Enhanced legal status and enforceability of the distributable profits definition in section 853 of the Companies Act 2006.
	  • A requirement for companies to disclose total distributable reserves (or the "known" distributable reserve, which must be greater than any proposed dividend).
	  • 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 that any proposed dividend is within known distributable reserves and that payment of the dividend will not, in their reasonable expectation, threaten the company's solvency over the next two years.
	
	• New requirements for premium listed companies to publish (with the requirements extending to other PIEs two years later):
	  1. 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.
	  2. An annual resilience statement on mitigation of risk, consolidating and building on existing going concern and viability statements.
	
	Other proposals relating to auditors and the audit market are outside the scope of this scanner. The consultation closes on 8 July 2021.
		8 July 2021	**Amber**

General corporate (continued)

Issues	Status	Key Timing	Impact
Law Commission law reform programme for 2021 Affects: all companies	On 24 March 2021, the Law Commission published a consultation on its 14th programme of law reform. The consultation closes on 31 July 2021 and the final programme will be published in H1 2022. Specific ideas for law reform include (among other things): • 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.	2022	**Green**
Corporate transparency - Companies House reform Affects: all companies	On 18 September 2020, the government responded to the consultation on enhancing Companies House and increasing transparency of UK corporate entities. Proposals include (among other things): • 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.	Ongoing	**Amber**

Consultation on reform of the public register and company's registers
 	
Affects: all companies
	Between 9 December 2020 and 3 February 2021, the government consulted on proposed reforms to the public register of companies and companies' own registers. A response is awaited. Among other things:
	
	• It is proposed to 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" (including where there is a risk to the UK's reputation as a good place to do business).
	  • 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).
	  • 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.
	• It is proposed to 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 (but notes that existing requirements around the register of members would be unlikely to change).
		Ongoing	**Amber**

General corporate (continued)

Issues	Status	Key Timing	Impact
Consultation on corporate directors ban Affects: companies with corporate directors	Between 9 December 2020 and 3 February 2021, the government consulted on implementing the corporate directors ban. The ban is contained in the Small Business, Enterprise and Employment Act 2015, which made prospective changes to the Companies Act 2006 but is not yet in force. The consultation focuses on the exceptions to the ban (these were also previously consulted on by past administrations in 2014 and 2015). A response is awaited. 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. The consultation proposes an exception whereby a corporate entity could be a director if: • 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. 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 the consultation seeks views on whether limited liability partnerships and limited partnerships should also be included and what conditions should attach to them.	Ongoing	**Amber**
Consultation on improving the quality of company accounts Affects: all companies	Between 9 December 2020 and 3 February 2021, the government consulted on improving the 'quality and value' of financial information kept at Companies House. A response is awaited. Proposals include: • 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 with Companies House, 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.	Ongoing	**Amber**

General corporate (continued)

Issues	Status	Key Timing	Impact
FRC proposal for principles-based corporate reporting Affects: all companies	Between 8 October 2020 and 5 February 2021, the FRC consulted on proposals to replace the current corporate reporting system with a principles based framework. A response is awaited. 1. It is proposed that the annual report be unbundled into separate "network reports" forming a "reporting network" (to align with the Kingman and Brydon recommendations) including: • 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). 2. It is proposed that future corporate reporting be based around a set of overarching principles including: • 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. 3. The consultation supports greater use of technology in presenting information, including: • Digitally producing all reporting content (including HTML, videos and presentation software). • Tagging information and content with machine-readable tags. • Instead of meeting specific information disclosure requirements, companies would report on compliance with/ departure from a set of principles (similar in concept to listed company compliance with the Corporate Governance Code). 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.	Ongoing	**Amber**
Late payment practices Affects: large companies	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). 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. It will ask finance directors and CEOs to take personal responsibility by signing the Code.	Ongoing	**Green**

General corporate (continued)

Issues	Status	Key Timing	Impact
Register of beneficial owners of overseas entities that own UK property Affects: non-UK companies (and their investors)	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.) 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' (OEBO) regime.	Ongoing	**Amber**
Consultation on non-compete clauses Affects: UK employers and employees	Between 4 December 2020 and 26 February 2021, 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: 1. 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. 2. An outright ban, possibly subject to exceptions. 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.	Ongoing	**Amber**
Asset Management Taskforce stewardship recommendations	On 24 November 2020, the Asset Management Taskforce (AMT) published a report of 20 recommendations to improve UK stewardship and responsible investment, covering corporate governance, corporate reporting and shareholder engagement. The recommendations cover all asset classes, including real estate and infrastructure. In particular: • The FRC's Stewardship Code is the standard for company stewardship and investment managers should sign up to it. • Shareholders should be more proactive in requisitioning resolutions on issues and should develop model resolutions for key concerns like climate change. • The threshold for requisitioning shareholder resolutions (100 or more shareholders holding on average £100 of paid-up capital, or shareholders holding at least 5% of the relevant voting rights) should be reviewed by government in case it is a barrier to stewardship. • Investors should set out clear expectations of companies after the pandemic, especially those seeking additional investor capital. • Greater shareholder participation in AGMs should continue to be prioritised, including through use of technology. The AMT is a government initiative backed by the Investment Association comprising representatives from central government, regulators, investor associations and institutional shareholders.	Ongoing	**Green**

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3 | Financial regulatory

Financial regulatory

Key developments in Q1 2021

- SFDR: publication of draft RTS
- Joint Committee of ESAs statement on application of SFDR
- ESAs agree to changes to PRIIPs KID Delegated Regulation
- Reminder from ESMA about MiFID II rules on reverse solicitation
- Government begins call for input on its review of UK funds regime

Issues	Status	Key Timing	Impact
SFDR: publication of draft RTS Affects: REITs and REIT managers when marketing into the EEA	On 4 February 2021, the European Supervisory Authorities (ESAs) (the EBA, EIOPA and ESMA) announced that the Joint Committee of ESAs had submitted to the EU Commission the final report on draft regulatory technical standards (RTS) on the content, methodologies and presentation of disclosures under Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector (SFDR). The next stage in the legislative process is for the Commission to decide whether to endorse the RTS, which it must do within three months of their publication. In addition, neither the EU Parliament nor the Council of the European Union must object to the RTS within three months of adoption by the Commission. According to the draft RTS, the application date of the RTS is 1 January 2022. The SFDR came into force on 10 March 2021.	From 1 January 2022	**Amber**

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
Joint Committee of ESAs statement on application of SFDR Affects: REITs and REIT managers when marketing into the EEA	On 25 February 2021, the ESAs issued a supervisory statement made by the Joint Committee of the ESAs on the application of the SFDR. Most provisions regarding sustainability-related disclosures applied from 10 March 2021. The expected application date of the RTS relating to the content, methodologies and presentation of sustainability-related disclosures is 1 January 2022. The Joint Committee recommends that the draft RTS are used as a reference point in the interim period before the RTS apply. The statement notes that given the legislative process the final RTS may differ from the draft RTS.	From 10 March 2021	**Amber**
Letter from Joint Committee of ESAs regarding priority issues relating to SFDR application Affects: REITs and REIT managers	On 7 January 2021, Steven Maijoor, the Chair of the Joint Committee of the ESAs, wrote to John Berrigan, Director General of Financial Stability, Financial Services and Capital Markets Union at the Commission, regarding certain interpretative uncertainties concerning the application of the SFDR. These include the application of the SFDR to non-EU AIFMs and sub-threshold AIFMs.	Ongoing	**Amber**

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
ESMA final report on advice to the Commission on KPI disclosure obligations under Article 8 of Taxonomy Regulation Affects: REITs and REIT managers when marketing into the EEA	In its final report dated 26 February 2021, ESMA has set out advice to the Commission under Article 8 of Regulation (EU) 2020/852 (Taxonomy Regulation) specifying the information to be provided by non-financial undertakings and asset managers to comply with their disclosure obligations under Directive 2014/95/EU (Non-Financial Reporting Directive). By 1 June 2021, the Commission must adopt a delegated act that specifies the content, presentation and methodology of the KPI information to be disclosed.	Ongoing	**Amber**
ESAs agree to changes to PRIIPs key information document Affects: REITs and REIT managers when marketing into the EEA	On 3 February 2021, the ESAs announced that they had submitted draft RTS to the Commission on amendments to the key information document for packaged retail and insurance-based investment products (PRIIPs). The announcement also confirmed that the draft RTS had been adopted by a qualified majority of EIOPA's Board (see for background, the request from the Commission in December 2020). The draft RTS is now subject to adoption by the Commission. If adopted, the RTS would be subject to non-objection by the European Parliament and the Council of the European Union.	Ongoing	**Amber**

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
Reminder from ESMA about MiFID II rules on reverse solicitation Affects: REITs and REIT managers when providing services to EEA investors	On 13 January 2021, ESMA published a public statement reminding firms of the MiFID II requirements concerning the provision of investment services to retail or professional clients by firms not established or situated in the European Union. Third-country firms are not subject to the MiFID II requirement to establish a branch in the EU, where a retail client or professional client established or situated in the EU initiates the provision of an investment service or activity at its own exclusive initiative. The statement notes that following the end of the Brexit transition period, "some questionable practices by firms around reverse solicitation have emerged." For instance, some firms had sought to avoid MiFID II requirements by including general clauses in their Terms of Business or through the use of online pop-up "I agree" check boxes where clients state that any transaction is executed on the exclusive initiative of the client. The statement reminds firms of the meaning of "own exclusive initiative of the client" and how every communication used must be considered when assessing whether there has been any solicitation or promotion or advertising in the EU.	Ongoing	**Amber**
Government begins call for input on its review of UK funds regime Affects: REITs and REIT managers	On 26 January 2021, HM Treasury published a call for input on its review of the UK funds regime. The policy paper considers the UK's approach to funds taxation and funds regulation and opportunities for wider reform. The paper notes that the government is looking at a range of proposals for unauthorised fund structures and refers to a range of industry proposals including a suggestion for a contractual scheme, put forward by the Association of Real Estate Funds, supported by the UK Funds Regime Working Group. Such a scheme could offer an onshore alternative to fund managers looking to service pension funds' as well as other, professional investors' investments in underlying UK real estate assets. Responses to the call for input close on 20 April 2021. The government will analyse responses to the call for input and then consult on policy proposals as appropriate.	Ongoing	**Green**
FCA consultation paper for new UK prudential regime for MiFID investment firms Affects: REIT managers that are collective portfolio management investment firms, REIT advisers that are MiFID investment firms	Following the publication of its discussion paper in June 2020 (see page 7 of our UK REIT Horizon Scanner Q3 2020), on 14 December, the FCA published the first in a series of three consultation papers on the UK's Investment Firm Prudential Regime (IFPR), CP20/24. The IFPR is now due to take effect in January 2022. In addition to MiFID investment firms, the IFPR will apply to collective portfolio management investment (CPMI) firms. The FCA says that it will use a subsequent consultation paper to explain how the proposed regime will apply to CPMI firms but that such firms may wish to provide feedback on the FCA's proposals in CP20/24 to help inform its future work in this area. The closing date for responses to CP20/24 was 5 February 2021.	Ongoing	**Red**

Financial regulatory (continued)

Looking back

<table>
<tr><th>Issues</th><th>Status</th><th>Key Timing</th><th>Impact</th></tr>
<tr><td>Impact of Brexit on UK regime for AIFs

Affects: REITs and REIT managers</td><td>FCA's approach to EU non-legislative materials

The European Supervisory Authorities (ESAs) have the power to produce non-legislative material (referred to as Level 3 material) either individually or through their Joint Committee. The FCA has provided guidance on its approach to EU non-legislative materials following the end of the Brexit transition period:

▪ In relation to ESA Guidelines and Recommendations, the FCA expects firms and market participants to continue to apply these to the extent that they are relevant.
▪ In relation to non-EU legislative material (which includes Opinions, Q&A documents, supervisory briefings, peer-review analyses, best practice statements, and warnings), the FCA will continue to have regard to this material to the extent it is relevant and firms and market participants should do likewise.

Onshoring changes

The Alternative Investment Fund Managers (Amendment etc.) (EU Exit) Regulations 2019/328 have changed certain aspects of the UK regime for AIFs. In particular, the definition of "control" for the purposes of the portfolio company disclosure and asset stripping provisions of the regime has changed:

▪ For a non-listed company, holding more than 50% of the voting rights of the company.
▪ For an issuer, holding the percentage of voting rights that confers control in the UK, calculated in accordance with the rules made by the Panel on Takeovers and Mergers under the Companies Act 2006.

These amendments mean that a UK AIFM is only required to report on portfolio companies and comply with the asset stripping restrictions when acquiring control of a UK company.

Transfer of functions

Powers and functions which were previously held by ESMA now belong to the FCA. The FCA is responsible for making technical standards to ensure the effective operation of EU-derived technical standards. UK AIFMs should report information on their UK and EU AIFs to the FCA and not ESMA. This will allow the FCA to monitor AIF risk management and stress testing.</td><td>1 January 2021</td><td>Green</td></tr>
</table>

Financial regulatory (continued)

Looking back

Issues	Status	Key Timing	Impact
Keynote address on AIFMD review Affects: REITs and REIT managers undertaking activities in the EEA	On 19 November 2020, Verena Ross, ESMA Executive Director, spoke at an AIMA Global Policy & Regulatory Forum on the future challenges facing fund managers. In connection with the AIFMD review, Ms Ross highlighted the importance of recognising "increased operational complexities and supervisory risks that come with large-scale delegation arrangements." With reference to ESMA's letter to the Commission in August 2020, she said that further consideration should be given to the issue of delegation to non-EU entities that might be subject to different regulatory standards.	Ongoing	**Amber**
AIC ESG guidance reissued **UK's own green taxonomy** Affects: REITs and REIT managers	The Association of Investment Companies (AIC) has updated its guidance on ESG, "The emerging ESG agenda" (available to AIC members only), to reflect regulatory changes following the end of the Brexit transition period. The guidance reminds readers that the EU Disclosure Regulation and the EU Sustainable Taxonomy Regulation and accompanying technical standards are not part of UK retained EU law. The guidance also refers to the UK government's announcement on 9 November 2020 that it will implement its own green taxonomy.	Ongoing	**Green**

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4 | Real estate, planning and construction

Real estate, planning and construction

Key developments in Q1 2021

- Government consultation on proposed framework to improve implementation and enforcement of the EPC B target by 2030 for privately rented non-domestic buildings

Issues	Status	Key Timing	Impact
Building Safety Bill **and** **Fire Safety Bill** Affects: Investors in, owners and developers of higher risk buildings and potentially extended to others	The Building Safety Bill has completed its pre-legislative scrutiny, with the Housing, Communities and Local Government Committee report being issued on 24 November 2020. The Government now needs to consider the report before formal introduction of the Bill to the House of Commons later this year. The Bill's provisions apply to England only. See: Draft Building Safety Bill requires more detail The Fire Safety Bill is now in ping-pong stage and has been returned to the House of Lords. When the wording has been agreed between the Commons and the Lords the Bill will be ready for Royal Assent .The Bill's provisions apply to England only. Both Bills are part of the Government's aim to improve regulation of building safety for higher risk buildings.	Details awaited	**Red**

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
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: • 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) are seeking permission to appeal a High Court decision handed down in November 2020 which turned down the group's application for judicial review of the sweeping changes to planning laws introduced by the Government over the summer.	[1 September 2020]	**Amber**

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Minimum energy efficiency level for rented property in England and Wales Affects: landlords of privately rented commercial or domestic property in England or Wales	Since April 2018, landlords of privately rented commercial or domestic property in England or Wales have not been able to grant a new tenancy unless their properties reach at least an Energy Performance Certificate (EPC) rating of E. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, 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. See: The Private Rented Property minimum standard – landlord guidance documents There is an exemptions framework to cover certain circumstances, which requires the landlord to note the property on a National PRS Exemptions Register. 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. 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. 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.	Note the next key date is 1 April 2023	**Red**

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Future Homes Standard and Future Buildings Standard Affects: developers, owners and occupiers and the construction supply chain	The government has confirmed that the Future Homes Standard is due to come into effect in 2025 with legislation anticipated in 2024 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 domestic buildings are expected to come into force in June 2022. A Future Buildings Standard for new non-domestic buildings is also anticipated. A consultation on the government's proposals closes on 13 April 2021.	June 2022	**Amber**
Non-domestic buildings minimum energy efficiency standards Affects: developers, owners and occupiers and the construction supply chain	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 has now been opened and will close on 9 June 2021. See: Consultation	Consultation closes 9 June 2021	**Amber**

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
The Charter for Social Housing Residents Affects: Property investors, local authorities, occupiers of social housing	The Ministry of Housing, Communities and Local Government published the Social Housing White Paper (aka "The Charter for Social Housing Residents") on 17 November 2020. A full copy of the White Paper is available here. The document contains few surprises and, as expected, the focus is on health & safety and tenant empowerment. The government will be working with the Regulator for Social Housing (RSH) to create a strong, proactive consumer regulatory regime, strengthening the formal standards against which landlords are regulated and requiring them to: • be transparent about their performance and decision-making – so that tenants and the regulator can hold them to account • put things right when they go wrong, and • listen to tenants through effective engagement.	MHCLG response published	Amber
Electric Vehicle Charging Consultation Affects: property owners, managers and investors	In July 2019, the government opened a consultation relating to the promotion of electric vehicles. The Electric Vehicle Charging Consultation's key proposals are that new residential buildings with an associated car parking space have a charge-point and that residential buildings undergoing major renovations with more than 10 car-parking spaces have cable routes for electric vehicle charge-points in every space. Supermarkets, retails parks, workplaces with carparks and public buildings such as schools, churches and community centres will also be caught by the proposals that existing non-residential buildings with more than 20 car-parking spaces have one charge point from January 2025. A related consultation seeks views on making it mandatory for new EV charge-points to be smart-enabled to allow charging at off peak-times. See: Electric Vehicle Charging in Residential and Non-Residential Buildings See: Electric Vehicle Smart Charging	Consultations closed on 7 October 2019 Government response is still awaited	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Unfair Practices in the Leasehold Market – MHCLG Review Affects: Residential and mixed-use property owners, managers and investors	On 20 March 2019, the Housing, Communities and Local Government Select Committee issued its report on leasehold reform. It has made a number of recommendations to the government, including that commonhold (see section below) should become the primary model of ownership of flats in England and Wales. It also asked the Competition and Markets Authority (the CMA) to investigate leasehold mis-selling. The CMA formally launched its investigation on 11 June 2019 and it will look at potential mis-selling, and potential unfair terms. On 3 July 2019, the government issued its response to the Select Committee report, and confirmed that it is bringing forward reforms including: banning the grant of new leases of houses; restricting ground rents on new leases to a peppercorn; and working with the Law Commission to reinvigorate Commonhold. See: Report on Leasehold Reform and Government response to Select Committee report On 28 March 2019, the government announced a new "Public pledge for leaseholders" in which certain property developers and freeholders have publicly committed to certain principles, including: • amending ground rent clauses where the rent doubles more frequently than every 20 years, offering to amend it to one linked to RPI (which we note is not an official statistic and tends to run higher than CPIH, the official consumer prices index including owner-occupiers' housing costs) • not inserting into any future lease a clause whereby ground rent doubles more frequently than every 20 years. See: Public Pledge for Leaseholders On 15 April 2019, the government announced its consultation into ending no-fault evictions for private residential tenancies (the abolition of section 21 Notices). Under the current rules, a landlord does not need to provide a reason for taking back a property at the end of the contractual term of the tenancy, provided that it complies with basic regulations and serves two months' notice on the tenant (a section 21 Notice). The consultation proposes that landlords must provide a concrete, evidenced reason already specified in law for bringing tenancies to an end, and so paves the way for open ended residential tenancies, of the sort more commonly found across the Continent. Details of how landlords could regain possession from tenants under the new rules are yet to be fleshed out, but it is proposed that the section 8 eviction process is also amended so that landlords are able to regain their property if they wish to sell it or move into it. On 21 July 2019, the government launched a consultation which seeks views on the implementation of the decision to abolish section 21 Notices. See: Government announces end to unfair evictions and A new deal for renting: Consultation description	Consultation closed on 12 October 2019. Response awaited	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Law Commission Residential Leasehold and Commonhold Project Affects: Residential and mixed-use property owners, managers and investors	The Law Commission's Residential Leasehold and Commonhold Project considers how to deal with existing leasehold houses subject to ground rents, as well as potential future models. The terms of reference that have been agreed with the government require the Law Commission: • to provide a better deal for leaseholders as consumers • to simplify the enfranchisement regime • to promote transparency and fairness • to set out the options for reducing premiums payable for enfranchisement, while ensuring sufficient compensation is paid to landlords to reflect their legitimate property interests. On 20 September 2018, the Law Commission issued its consultation paper on leasehold home ownership. See: Leasehold Home Ownership: Buying your freehold or extending your lease On 11 December 2018, the Law Commission also published its consultation paper on reinvigorating the commonhold model of property ownership, as an alternative to leasehold ownership. See: Reinvigorating commonhold: the alternative to leasehold ownership In January 2019, the Law Commission published its consultation paper on reform of the Right to Manage leasehold property. See: Leasehold home ownership: exercising the right to manage In January 2020 the Law Commission published its report on options to reduce the price payable. Within the report they set out a number of options for reducing premiums and simplifying how these are to be calculated. It contains no recommendations – the way forward will be determined by Parliament. See: Report on options to reduce the price payable	Law Commission response published on 7 January 2021 – see following page Right to Manage consultation period closed on 30 April 2019. Response awaited – delayed by COVID-19	**Amber**

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Law Commission Residential Leasehold and Commonhold Project (cont'd) Affects: Residential and mixed-use property owners, managers and investors	The government has announced that legislation will be brought forward in the upcoming session of Parliament to implement the recommendations. In addition, the government stated its intention to: • 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. 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.	Law Commission response published on 7 January 2021 Right to Manage consultation period closed on 30 April 2019. Response awaited – delayed by COVID-19	**Amber**

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Draft registration of overseas entities bill Affects: Overseas owners of UK property	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. 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. Taylor Wessing has been liaising with BEIS in relation to the practical steps needed to implement the Register of Overseas Beneficial Ownership. See: Joint Committee on the Draft Registration of Overseas Entities Bill	Draft legislation published in July 2018. It is anticipated that the register will go live by early 2021	**Amber**

Real estate, planning and construction (continued)

Looking back

Issues	Status	Key Timing	Impact
Construction: Value Added Tax – reverse charge to combat VAT fraud in the construction industry Affects: Suppliers and customers of construction services	The domestic reverse charge for building and construction services has been postponed for 12 months and will now be introduced on 1 March 2021. The government guidance on the reverse charge has been updated to reflect the new start date. See: Draft statutory instrument	1 March 2021	**Green**
Coronavirus COVID-19 temporary statutory interventions for Real Estate	• Landlords cannot forfeit for non-payment of rent until 31 December 2021 (with a wide interpretation given to rent to include such items as service charge and insurance). • Use of the Commercial Rent Arrears Recovery procedure will only be permitted where there is at least 189 days worth of outstanding rent. • Prohibition on the winding up of a company based on deemed insolvency following the failure to comply with a statutory demand served during a period commencing on 1 March. The end date for the period is currently set at 31 March 2021. • Residential mortgage holidays of 3 months for both owner occupied and buy to let owners.	Ongoing	**Red**

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5 | Tax

Tax

Key developments in Q1 2021

- Government has now published a call for input on its wider review of the UK funds regime and asks for views on aspects of the REITs regime
- Temporary increase to the SDLT nil rate band has been extended to 30 September 2021 (although reduces from £500k to £250k at 1 July 2021)
- New super deduction of 130% for qualifying expenditure on main rate plant and machinery and special rate first year allowances of 50% for qualifying expenditure on special rate plant and machinery

Issues	Status	Key Timing	Impact
Consultation on targeted changes to UK REITs rules and upcoming comprehensive review of regime Affects: UK REITs	In the Spring 2020 Budget, the government announced a review of the UK funds regime to ensure its ongoing competitiveness and sustainability. As part of this review, the government launched a consultation on the tax treatment of asset-holding companies (AHCs) in alternative fund structures. This consultation also explored the possibility of expanding the UK REITs regime to facilitate easier access to REIT status for AHCs. On 15 December 2020, the government published a response and second stage consultation which considers targeted changes to the REITs regime to make the UK a more competitive location for holding real estate assets. In particular: ▪ relaxing the requirement for a REIT to be listed or traded on a recognised stock exchange if institutional investors in a REIT are themselves widely held e.g. by requiring a minimum percentage holding by widely-held institutional investors ▪ amending the close company test that applies to REITs ▪ relaxing the holders of excessive rights rule so that it applies only to distributions if withholding would be required ▪ considering how the balance of business test can be reformed to provide greater certainty. On 26 January 2021, the government published a call for input on its wider review of the UK funds regime. It lists areas of concerns and asks for views on solutions to address these concerns. One area of concern is that there may be barriers and complexity within the REITs regime. Government is asking for views on: • the impact of removing the interest cover test • amending the rule that states a property is deemed to be sold in the course of a trade if it is sold within three years of development • removing the barrier that exists if a REIT holds overseas property in a UK company.	Second stage consultation closed on 23 February 2021 Call for input on UK funds regime invites stakeholders to provide views by 20 April 2021	Amber

Tax (continued)

Issues	Status	Key Timing	Impact
Stamp Duty Land Tax (Temporary Relief) Act 2020 Affects: all purchasers of residential property	The Stamp Duty Land Tax (Temporary Relief) Act 2020 introduced a temporary increase in the SDLT nil-rate band from £125,000 to £500,000 for residential property transactions with an effective date on or after 8 July 2020 but before 1 April 2021. The Finance Bill 2021 amends the Act to extend the temporary period until 30 June 2021. From 1 July 2021 to 30 September 2021 the nil-rate band is lowered to £250,000 for residential property transactions and for transactions on or after 1 October 2021 the nil-rate band goes back to £125,000. The 3% higher rate surcharge continues to apply.	Temporary increase in SDLT nil-rate band ends on 30 June 2021. From 1 July 2021 to 30 September 2021 the nil-rate band is lowered to £250,000.	Amber
Finance Bill 2021 - Super deduction and special rate first year allowances for capital allowances Affects: REITS investing in capital expenditure	The Finance Bill 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. 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. 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.	Applies to expenditure between 1 April 2021 and 31 March 2023	Amber

Tax (continued)

Looking back

Issues	Status	Key Timing	Impact
Extension of UK corporation tax to non-UK resident companies with UK property income Affects: (among others) non-resident companies receiving PIDs	With effect from 6 April 2020, Offshore Propcos were brought within the charge to UK corporation tax (rather than income tax) on their UK property income. See: Taylor Wessing briefing	April 2020	Red
Introduction of a new capital allowance for non-residential structures and buildings Affects: investors in REITs developing and constructing new commercial structures and buildings	The rate of Structures and Buildings Allowance increased to 3% from 1 April 2020 (for businesses within corporation tax) or 6 April 2020 (for those within income tax). 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.	April 2020	Amber

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6 | Key contacts

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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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