



TaylorWessing

UK REIT Horizon Scanner Q3 2020

UK REIT Horizon Scanner Q3 2020

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 EU law).

Issue/status/timing: New developments since our December 2019 edition are shown in **green text**.

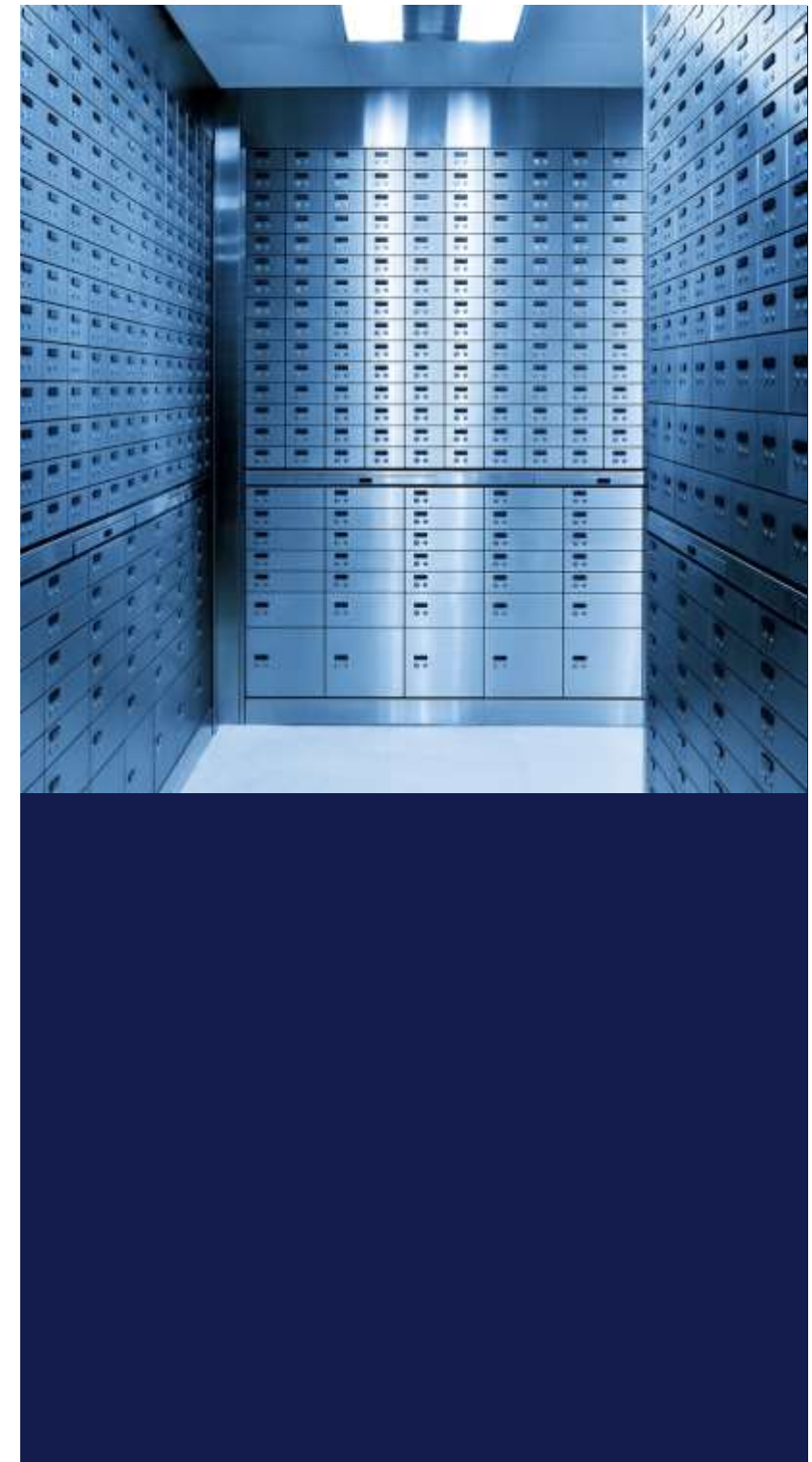
Impact: urgency/impact rating for REITs admitted to London Stock Exchange Main Market (including the Specialist Fund Segment²)

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

Published as at: 30 June 2020

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 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.



Contents

1	Financial regulatory	4
2	Real estate, planning and construction	14
3	Tax	25
4	General corporate	28
5	Equity capital markets	38
6	Key contacts	52



TaylorWessing

| 1 | Financial regulatory

UK REIT Horizon Scanner Q3 2020

Financial regulatory

Key developments in H1 2020

- Impact of COVID-19 on SMCR: (a) regulatory expectations and (b) delay to implementation
- EU Commission publishes AIFMD review
- FCA publishes discussion paper on prudential requirements for MiFID investment firms
- European Fund and Asset Management Association draws attention to urgent need for review of PRIIPs KID rules
- The European Commission's reforms on sustainable finance have taken a big step forward. The Disclosure Regulation entered into force on 29 December 2019 and many of its provisions will apply from 10 March 2021. The Taxonomy Regulation has been published in the Official Journal. It will take effect on 12 July 2020 and apply in part from 1 January 2022 and in part from 1 January 2023
- Firms asked to register for new FCA data platform

Issues	Status	Key Timing	Impact
Impact of COVID-19 on SMCR Affects: All REIT managers and investment advisers	<p>The FCA published a web page on 3 April 2020 setting out its expectations for solo-regulated firms relating to obligations under the Senior Managers and Certification Regime (SMCR). The regulator is acutely aware that firms impacted by the COVID-19 crisis will need to keep their governance arrangements under review and adjust them as appropriate. Where possible it intends to provide firms with flexibility in how they comply with the SMCR. For example, the 12-week rule (which allows an individual to cover for a Senior Manager without being approved) can be extended to 36 weeks on application to the FCA, where an extended temporary arrangement is required because of the COVID-19 crisis. A summary of the FCA's expectations can be found here.</p> <p>On 30 June 2020, the FCA announced that HM Treasury has agreed to delay the SMCR certification deadline for solo-regulated firms to 31 March 2021 (from 9 December 2020). To ensure SMCR deadlines remain consistent, the FCA intends to consult on extending the deadlines for application of the Conduct Rules and the submission of information about Directory Persons to the Register.</p>	April 2020 onwards	Red

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
EU Commission review of AIFMD Affects: REITs and REIT managers	<p>On 10 June 2020, the European Commission provided the European Parliament and the Council of the EU with its report on the application and scope of the Alternative Investment Fund Managers Directive (2011/61/EU) (AIFMD) on Alternative Investment Fund Managers (AIFMs). The report is generally positive in its assessment of AIFMD but highlights some challenges with the effectiveness of the EU AIFM passport and national private placement regimes, as well as issues relating to AIFMD valuation rules. Further details on the conclusions reached in the report are contained in a Staff working document, which is available on request from the Commission.</p> <p>The Commission intends to consult on AIFMD in Q3 2020.</p>	Q3 2020	Amber
ESMA final report on liquidity stress testing in AIFs Affects: REITs, REIT managers and depositaries	<p>In September 2019, ESMA published a final report on guidelines on liquidity stress testing in UCITS and AIFs. The guidelines will require fund managers to:</p> <ul style="list-style-type: none"> ▪ build liquidity stress testing models that are fully integrated and embedded into a fund's risk management framework and subject to appropriate governance and oversight arrangements; and ▪ have a strong understanding of liquidity risks and the overall liquidity profile of the fund. <p>Depositaries will need to be able to verify that fund managers have the appropriate procedures in place.</p> <p>The guidelines will apply from 30 September 2020.</p>	30 September 2020	Amber
Directive on cross-border distribution of AIFs Affects: AIFs and AIFMs	<p>On 12 July 2019, Directive (EU) 2019/1160 was published in the Official Journal of the European Union. The Directive amends certain funds-related legislation including the AIFMD with regard to the cross-border distribution of collective investment undertakings.</p> <p>The Directive entered into force on 1 August 2019. Member States have until 2 August 2021 to fully transpose the Directive into their national laws.</p> <p>The Directive introduces a new pre-marketing regime for EEA AIFMs of EEA AIFs. It is not yet clear how Member States will apply the new rules to non-EEA managers, which includes UK managers.</p>	From August 2021	Amber

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>New prudential framework for MiFID investment firms</p> <p>Affects: REIT managers that are collective portfolio management investment firms, REIT advisers that are MiFID investment firms</p>	<p>On 23 June 2020, the FCA published a discussion paper setting out its initial views and technical details on the prudential framework for MiFID investment firms. The approach taken in the paper is to describe the key elements of the prudential regime under the Investment Firm Directive (Directive (EU) 2019/2034) and the Investment Firm Regulation (Regulation (EU) 2019/2033) (which were published last year) with an indication of how the FCA intends to apply the new regime in the UK. The FCA's discussion paper sits alongside the publication on the same day by HM Treasury of a policy statement on a Financial Services Bill, which will include a new prudential regime for investment firms as per the original statement by the Chancellor in the 11 March budget that the Government would legislate for such a regime.</p> <p>The FCA proposes that collective portfolio management investment firms (a category which includes firms that are authorised under AIFMD as full-scope AIFMs that in addition have permission to undertake discretionary client-by-client portfolio management and provide the services of investment advice, safe-keeping and administration in relation to shares or units of collective investment undertakings, and reception and transmission of orders in relation to financial instruments) are subject to the same prudential requirements for their additional 'MiFID business' as a MiFID investment would be for its MiFID business.</p> <p>In broad terms, the new regime proposed includes:</p> <ul style="list-style-type: none"> (a) increased own funds requirements (b) a K-factor requirement, which requires a sum for each activity that a firm undertakes and is intended to account for the potential harm that an investment firm can do to its clients. (c) a new category of MiFID investment firm called 'small and non-interconnected investment firms' (SNI) in the European legislation, which will be subject to a more proportionate regime and therefore less onerous prudential requirements. For example, they will not have to include the K-factor requirement in their own funds requirements but will need to consider it for relevant metrics. <p>The discussion paper notes that the FCA expects a majority of FCA-regulated investment firms would qualify as the equivalent of SNIs.</p> <p>The FCA requests comments on the discussion paper by 25 September 2020. While the European regime will go live on 26 June 2021, it is not clear that the UK's regime will be in place by then given the considerable amount of detail still outstanding.</p>	June 2020 – September 2020	Red

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
EFAMA call for urgent review of PRIIPs KID Affects: REITs, REIT managers	<p>On 28 April 2020, the European Fund and Asset Management Association (EFAMA), issued a statement on the much anticipated final report of the Joint Committee of the European Supervisory Authorities on technical changes to the PRIIPs Key Information Document (KID). EFAMA notes that 'the current PRIIP[s] KIDs are flawed and are providing retail investors with misleading information. A review addressing these flaws is essential.' It goes on to say that '[i]f pragmatism prevails, we are still confident that most issues can be successfully addressed through Level 2 changes.' The ESAs originally indicated that they intended their review to be completed at the end of Q1 2020. The intervention by EFAMA, follows a letter from a quartet of trade associations in January 2020 (Insurance Europe, the Association of Mutual Insurers and Insurance Co-operatives in Europe, the European Banking Federation, and EFAMA), which raised serious concerns with the review process, which it noted was not mandated by PRIIPs, and which coincided with a review that the Commission had yet to complete itself.</p>	H2 2020	Amber
New FCA data collection platform Affects: REIT managers, investment advisers	<p>On 22 June 2020, the FCA announced that its new data collection platform would be called RegData. RegData will replace the Gabriel reporting system.</p> <p>Since 2 April 2020, firms logging into Gabriel have been asked to create an account for the new platform, which will link to their Connect account.</p> <p>An overview of the registration process can be found on the FCA's web page and a detailed step-by-step guide can be accessed here.</p>	TBC	Amber
FCA Brexit page on implementation period Affects: All REITs, REIT managers and investment advisers operating on a cross-border basis	<p>The FCA published a web page on 20 December 2019 on the implications of the Brexit implementation period, which commenced when the UK left the EU at the end of January 2020.</p> <p>During the implementation period, EU law will continue to apply until 31 December 2020.</p> <p>Passporting rights continue, although firms will need to consider how the end of the implementation period would affect them and what action they will need to take to prepare for 1 January 2021.</p> <p>The FCA will continue to engage with the UK government and regulators, European Supervisory Authorities and European policy makers on shared issues and priorities to prepare for the end of the implementation period.</p>	1 January 2021	Red

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>ESG – Disclosure Regulation</p> <p>Affects: 'financial market participants' (including AIFMs and investment firms providing portfolio management) and certain financial advisers</p>	<p>The Disclosure Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector entered into force on 29 December 2019. It is a key part of the Commission's reforms on sustainable finance alongside the Taxonomy Regulation and the Low Carbon Benchmark Regulation.</p> <p>The Disclosure Regulation imposes new transparency and disclosure requirements on 'financial market participants' (which includes AIFMs and investment firms providing portfolio management) and certain financial advisers. There are requirements on:</p> <ul style="list-style-type: none"> ▪ Website disclosures, including policies about the integration of sustainability risks in the investment decision-making process (for financial market participants) or the integration of sustainability risks in investment or insurance advice (for financial advisers). ▪ Information that must be provided to investors as part of pre-contractual disclosures. ▪ Periodic reporting to investors. <p>Most provisions will apply from 10 March 2021. Some provisions relating to periodic reporting will apply from 1 January 2022. Some provisions, relating to secondary regulation to be written by the European Supervisory Authorities, applied immediately from 29 December 2019.</p> <p>While the key provisions will start to apply after the end of the Brexit implementation period, this legislation is due to be 'onshored'. The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020, made on 29 June 2020, confirm that several provisions of the Disclosure Regulation are omitted from the UK regime. These omissions relate to technical standards, to ensure that the UK regime works.</p> <p>On 23 April 2020, the Joint Committee of the European Supervisory Authorities published a consultation paper (JC 2020 16) on proposed regulatory technical standards on content, methodologies and presentation of disclosures under the Disclosure Regulation. The consultation closes on 30 September 2020.</p> <p>The AIC has published a guidance note on the Disclosure Regulation and the emerging ESG regulatory obligations.</p>	<p>March 2021 and January 2022</p>	<p>Red</p>

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
ESG – Taxonomy Regulation Affects: Companies on a regulated market with +500 employees; and 'financial market participants', including AIFMs and investment firms providing portfolio management	<p>The Taxonomy Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment was passed on 17 June 2020. It was published in the Official Journal on 22 June 2020 and takes effect on 12 July 2020. The Regulation is part of the European Commission's package of reforms relating to sustainable finance, with the Disclosure Regulation and Low Carbon Benchmark Regulation.</p> <p>The Taxonomy Regulation establishes an EU-wide classification system (the world's first-ever 'green list') intended to provide firms and investors with a common framework for use when investing in projects and economic activities with a substantial positive impact on the climate and the environment, helping to identify to what degree economic activities can be considered to be 'environmentally sustainable'.</p> <p>Companies who are required to publish a non-financial statement under the Non-Financial Reporting Directive will be required to include additional information in their non-financial statement on how and to what extent their activities are associated with environmentally sustainable economic activities.</p> <p>The Taxonomy Regulation also makes amendments to the Disclosure Regulation, adding further detail to some of the disclosure requirements.</p> <p>Climate mitigation requirements apply from 1 January 2022. Other requirements apply from 1 January 2023.</p> <p>The Commission is due to adopt delegated legislation containing technical screening criteria ('TSC') on climate mitigation and adaptation by 31 December 2020 (with a view to that applying from 1 January 2022), and on other objectives by 31 December 2021 (with a view to that applying from 1 January 2023). The TSC will be far more granular than the Taxonomy Regulation itself.</p> <p>While the Regulation starts to apply after the end of the Brexit implementation period, this legislation is due to be 'onshored'. However, the Treasury has indicated that it cannot comment on the delegated legislation (including the TSC) and the extent to which the UK will onshore this, as the delegated legislation has not yet all been published by the European Commission.</p>	January 2022 and January 2023	Amber

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
<p>ESG – Low Carbon Benchmarks Regulation</p> <p>Affects: Benchmark administrators and indirectly those wishing to use ESG benchmarks or indices</p>	<p>The Low Carbon Benchmarks Regulation came into force on 10 December 2019, amending the Benchmark Regulation by introducing a regulatory framework of minimum requirements for two new categories of benchmark:</p> <ol style="list-style-type: none"> 1. EU Climate Transition Benchmark - a benchmark where the underlying assets are selected, weighted or excluded in a way that the resulting benchmark portfolio is on a decarbonisation trajectory. 2. EU Paris-aligned Benchmark - a benchmark where the underlying assets are selected, weighted or excluded in a way that the resulting benchmark portfolio's carbon emissions are aligned with the objectives of the Paris Agreement 2015. <p>The Benchmark Regulation has already been 'onshored' into the UK with amendments by the Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019 (SI2019/657). The Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020, made on 29 June 2020, amend that UK benchmark regime by inserting definitions of UK Climate Transition Benchmarks and UK Paris-aligned Benchmarks into the UK benchmark regime and transferring some functions from EU bodies to HM Treasury and the FCA.</p> <p>On 9 April 2020, the European Commission published three Delegated Acts for consultation until 6 May 2020, relating to minimum standards:</p> <ul style="list-style-type: none"> • ESG disclosure requirements in relation to the benchmark statement. • ESG disclosure requirements in relation to the benchmark methodology. • The minimum requirements for a benchmark to be labelled a Climate Transition Benchmark or a Paris-aligned Benchmark and transparency requirements for these benchmarks' methodology. 	Ongoing	Green

Financial regulatory (continued)

Issues	Status	Key Timing	Impact
ESG – disclosures Affects: investors and investment funds (amongst others)	<p>On 20 December 2019, the EU technical expert group on sustainable finance ('TEG') published a handbook on climate benchmarks and benchmarks' ESG disclosures. This follows the release of the TEG's September 2019 final report setting out its recommendations relating to the new climate benchmarks and ESG disclosure requirements.</p> <p>The handbook aims to answer frequently asked questions that have been asked of the TEG and covers, amongst other things, the reduction trajectory; terminology and related classifications; anti-greenwashing measures (to avoid all low-carbon indices being equally promoted as environmentally relevant, despite having different characteristics); and ESG disclosures.</p>	Ongoing	Green
ESG – taxonomy Affects: investors and investment funds (amongst others)	<p>On 9 March 2020 the TEG published its final report on the taxonomy for sustainable economic activities on, which sets out:</p> <ul style="list-style-type: none"> ▪ Recommendations on the overarching design of the taxonomy. ▪ Guidance on the obligations for financial market participants and large companies under the taxonomy, including how they can make disclosures using the taxonomy. ▪ Recommendations for the Platform on Sustainable Finance to be established under the Taxonomy Regulation. <p>The TEG has also published a technical annex, which contains an updated list of technical screening criteria for economic activities that can substantially contribute to climate change mitigation or adaptation, including an assessment of significant harm to other environmental objectives.</p>	Ongoing	Green

Financial regulatory (continued)

Looking back

Issues	Status	Key Timing	Impact
MiFID II – ESMA Q&A Affects: MiFID investment firms	<p>On 4 December 2019, ESMA published an updated version of its Q&As on MiFID II investor protection and intermediaries topics.</p> <p>There are two new questions on:</p> <ul style="list-style-type: none">• information on costs and charges, including personalised ex-post disclosure of costs• product intervention, in relation to applying national product intervention measures when providing investment services on a cross-border basis. <p>The content of ESMA Q&As is non-exhaustive and does not constitute new policy.</p>	4 December 2019	Amber
AIFMD – amended requirements for delegation of safe-keeping functions to a third party Affects: Depositaries of AIFs, AIFs, AIFMs (CUSTODY)	<p>Delegated Regulation (EU) 2018/1618 amending Delegated Regulation EU 231/2013 (which sets out detailed requirements where a depositary of an AIF delegates safe-keeping functions to a third party) apply from 1 April 2020. The Regulation aims to ensure a consistent approach across the EU and address concerns arising because securities and insolvency laws are not harmonised throughout the EU.</p> <p>See: Regulation amending Delegated Regulation EU 231/2013</p>	1 April 2020	Amber



TaylorWessing

| 2 | Real estate, planning and construction

Real estate, planning and construction

Key developments in H1 2020

- Coronavirus COVID-19 temporary statutory interventions for Real Estate:
 - Landlords cannot forfeit for non-payment of rent until 30 September 2020 (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 company winding-up based on deemed insolvency following the failure to comply with a statutory demand served during a period commencing on 1 March 2020
 - Residential mortgage holidays of 3 months for both owner occupied and buy to let owners
- Guidance on sprinklers in new high-rise residential buildings in force from 26 November 2020
- New edition of Site Operating Procedures for construction issued 1 July 2020 reflecting COVID-19 social distancing, including longer permitted working hours to mitigate impact

Issues	Status	Key Timing	Impact
Building Safety Bill and Fire Safety Bill Affects: Investors in, owners and developers of high rise residential buildings (HRRB) and potentially extended to others	<p>The Queen's speech on 19 December 2019 outlined proposals for a new Building Safety Bill and Fire Safety Bill during this Parliament. The Bills have now been published but are awaiting a second reading.</p> <p>The Building Safety Bill aims to introduce the new and improved regulatory regime for building safety and construction products, and to ensure that residents have a stronger voice in the system, taking forward the recommendations of Dame Judith Hackitt's review of building safety. The Bill's provisions will apply in England only.</p> <p>This Fire Safety Bill will seek to implement effective change and implement the relevant recommendations of Phase 1 of the Grenfell Tower Public Inquiry Report and make sure that building owners and managers of multi-occupied residential premises of any height are responsible for assessing the risks of external walls and fire doors. This Bill's provisions will apply to England only.</p> <p>See: Building a Safer Future Consultation Response Taylor Wessing Insights on New Regime</p>	Details awaited	Red

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Sprinklers in new high-rise residential buildings: consultation	<p>Government in its response to the consultation has confirmed that the sprinkler requirements will now apply to blocks of flats over 11m. The change in guidance will come into force on 26 November 2020 and will apply to any buildings undertaking building works unless the building works have started on site or an initial notice, building notice or full plans has been deposited by 26 November 2020 and work has started on site by 29 January 2021. Retrofitting of sprinklers in existing buildings would require further consideration.</p> <p>See: Government Response: Sprinklers and Other Fire Safety Measures in New High-Rise Blocks of Flats</p>	26 November 2020	Red
Construction: Value Added Tax – reverse charge to combat VAT fraud in the construction industry Affects: Suppliers and customers of construction services	<p>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.</p> <p>See: Draft statutory instrument</p>	1 March 2021	Green
Construction: COVID-19 and Site Operating Procedures Affects: Suppliers and customers of construction services in England	<p>The Site Operating Procedures which set out guidance on safe working practices for those working on construction sites is now on its fifth edition (published 1 July 2020). The Site Operating Procedures have been widely adopted, and inevitably compliance with the Procedures, and specifically the social distancing requirements, will lead to a loss of productivity, which the Government has sought to mitigate by increasing permitted working hours for construction sites.</p> <p>See: Site Operating Procedures V5</p> <p>See: Ministerial Statement on Construction Operating Hours</p>		Red
New RICS Code for leasing business premises published as a professional statement Affects: Property owners, managers and investors	<p>Following a consultation early last year, The Royal Institution of Chartered Surveyors (RICS) has published the Code for Leasing Business Premises in England and Wales (2019) which, as a professional statement, might impact on how commercial leases are drafted to represent both landlords and tenants.</p> <p>See: Code for Leasing Business Premises</p>	1 September 2020	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Review of the implementation of the Housing Grants, Construction and Regeneration Act 1996 (Construction Act) Affects: all parties to construction contracts and their funders	<p>The Department for Business, Energy and Industrial Strategy is still considering responses to its consultation on a review of the implementation of the Construction Act, specifically the use of adjudication for construction disputes and the payment provisions.</p> <p>See: 2011 Changes to Part 2 of the Housing Grants, Construction and Regeneration Act 1996</p>	<p>Consultation closed; government response still awaited</p>	Amber
Retentions in the construction industry Affects: all parties to construction contracts and their funders	<p>The Department for Business, Energy and Industrial Strategy has now published its response to a consultation to review the use of retentions in the construction industry. DBEIS felt the consultation provided a useful basis for ongoing work. It intends to work with the construction industry and its clients to resolve the problems associated with cash retentions. There are several policy options under consideration including a possible retention deposit scheme and the complete phasing out of retentions. Further detail is awaited.</p> <p>In the meantime, Build UK has published its proposals setting out a road map for abolition of retentions so as to deliver zero retentions by 2023.</p> <p>See: Retention payments in the construction industry See: Build UK Proposals</p>	<p>Further detail awaited</p>	Green

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 will be affected by an extension of the prohibition on new (or renewal) lettings to properties 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 will be 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>Note the next key date is 1 April 2023</p>	<p>Red</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
EPC Consultation Affects: Property owners, managers and investors	<p>BEIS has consulted on the use of Energy Performance Certificates. The consultation aims to gain evidence on the effectiveness of EPCs, assess the suitability of the current system for the use of EPCs, and obtain suggestions for improvement.</p> <p>See: Energy Performance Certificates in buildings: call for evidence</p>	<p>Consultation closed on 19 October 2018</p> <p>BEIS response awaited</p>	Green
A new deal for social housing – government green paper Affects: Property investors, local authorities, occupiers of social housing	<p>The government has published a green paper which proposes reforms to the regulatory framework governing the social housing sector. It suggests that these reforms cover the governance and financial viability of housing associations, and also the way in which residents are treated and the level of service that they should expect. The green paper is accompanied by a call for evidence on the operation of the current regulatory framework, and a consultation on options to change the rules governing the money raised from Right to Buy sales.</p> <p>The government also announced on 4 October 2018 that the cap on local authority borrowing against housing stock is to be removed, with the intention that this will stimulate the construction of new housing developments.</p> <p>See: A new deal for social housing</p>	<p>Green paper published on 14 August 2018</p> <p>Consultation closed on 6 November 2018</p> <p>MHCLG response awaited</p>	Amber
Electric Vehicle Charging Consultation Affects: property owners, managers and investors	<p>In July 2019, the government opened a consultation relating to the promotion of electric vehicles.</p> <p>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.</p> <p>Supermarkets, retail parks, workplaces with car parks 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.</p> <p>See: Electric Vehicle Charging in Residential and Non-Residential Buildings</p> <p>See: Electric Vehicle Smart Charging</p>	<p>Consultations closed on 7 October 2019</p> <p>Government response is still awaited</p>	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Unfair Practices in the Leasehold Market – MHCLG Review</p> <p>Affects: Residential and mixed-use property owners, managers and investors</p>	<p>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.</p> <p>See: Report on Leasehold Reform and Government response to Select Committee report</p> <p>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:</p> <ul style="list-style-type: none"> ▪ 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. <p>See: Public Pledge for Leaseholders</p> <p>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.</p> <p>See: Government announces end to unfair evictions and A new deal for renting: Consultation description</p>	<p>Consultation closed on 12 October 2019. Response awaited</p>	<p>Amber</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
Future Homes Standard Affects developers, owners and occupiers and the construction supply chain	<p>The government is committed to introducing the Future Homes Standard in 2025 to ensure that new homes are future-proofed with low carbon heating and world-leading levels of energy efficiency. As a stepping stone, the government proposes to introduce an achievable uplift to energy efficiency standards from 2020 and has opened a consultation seeking views on the uplift of the 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 from 2020.</p> <p>Further consultation will follow addressing overheating in new dwellings and on standards for existing domestic buildings and new and existing non-domestic buildings.</p> <p>The Future Homes Standard is likely to require high fabric standards, such as triple glazing, and standards for walls, floors and roofs that limit heat loss and low carbon heating systems, such as heat pumps and heat networks.</p> <p>See: Consultation</p>	<p>Consultation closed</p> <p>Response awaited</p>	Amber

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
<p>Law Commission Residential Leasehold and Commonhold Project</p> <p>Affects: Residential and mixed-use property owners, managers and investors</p>	<p>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:</p> <ul style="list-style-type: none"> 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. <p>On 20 September 2018, the Law Commission issued its consultation paper on leasehold home ownership.</p> <p>See: Leasehold Home Ownership: Buying your freehold or extending your lease</p> <p>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.</p> <p>See: Reinvigorating commonhold: the alternative to leasehold ownership</p> <p>In January 2019, the Law Commission published its consultation paper on reform of the Right to Manage leasehold property.</p> <p>See: Leasehold home ownership: exercising the right to manage</p> <p>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.</p> <p>See: Report on options to reduce the price payable</p>	<p>Leasehold consultation period closed on 7 January 2019. Response awaited – delayed by COVID-19.</p> <p>Commonhold consultation period closed on 10 March 2019. Response awaited – delayed by COVID-19</p> <p>Right to Manage consultation period closed on 30 April 2019. Response awaited – delayed by COVID-19</p>	<p>Amber</p>

Real estate, planning and construction (continued)

Issues	Status	Key Timing	Impact
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.</p> <p>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>	<p>Draft legislation published in July 2018. It is anticipated that the register will go live by early 2021</p>	Amber
Retail Prices Index Consultation Affects: Property owners, landlords, managers and investors	<p>The UK Statistics Authority (UKSA) has made a proposal to cease publication of the Retail Prices Index (RPI) and in the meantime to align RPI and the Consumer Prices Index including Housing (CPIH). Because RPI is used as the reference index in some government debt, the consent of the Chancellor of the Exchequer is needed for this change if it is made before 2030.</p> <p>Government has now issued a consultation: A consultation on the Reform to Retail Prices Index (RPI) Methodology. As part of that consultation, UKSA has been told to consult on technical matters concerning how to implement the proposed alignment of RPI with CPIH.</p> <p>Landlords should look at RPI rent review provisions in their leases. Depending on the wording of the relevant clause, they may be exposed to having lower rent increases if it is decided to align RPI with CPIH in a way which does not involve a change to the reference base.</p> <p>See: Letter from the Chancellor of the Exchequer to the UK Statistics Authority</p>	<p>Consultation closes on 21 August 2020</p> <p>The government and UKSA will publish a joint response to the consultation before the Spring Statement and the end of the financial year</p>	Amber

Real estate, planning and construction (continued)

Looking back

Issues	Status	Key Timing	Impact
Combustible cladding ban in Wales from 13 January 2020	<p>The ban will apply to combustible cladding on all new residential buildings (flats, student accommodation and care homes) and hospitals over 18m in height. The ban will also apply to existing buildings where relevant building work is being carried out which falls within the scope of the Building Regulations, unless the building works have started on-site or an initial notice, building notice or full plans have been deposited and work has started on site within a period of 8 weeks.</p> <p>See: Building (Amendment) (Wales) Regulations 2019</p>	13 January 2020	Amber
Coronavirus COVID-19 temporary statutory interventions for Real Estate	<ul style="list-style-type: none">▪ Landlords cannot forfeit for non-payment of rent until 30 September 2020 (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 yet to be determined - the original draft of the bill stipulated 30 days from enactment, but the most recent proposed amendments push this out to 30 September▪ Residential mortgage holidays of 3 months for both owner occupied and buy to let owners	Ongoing	Red



TaylorWessing

| 3 | Tax

UK REIT Horizon Scanner Q3 2020

Tax

Key developments in H1 2020

- Non-UK resident companies with UK property income brought within the charge to UK corporation tax
- The rate of Structures and Buildings Allowance increased to 3%

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	<p>In March 2017, the UK government consulted on bringing Offshore Propcos within the charge to UK corporation tax (rather than income tax) on their UK property income, with the policy objective of equal tax treatment between UK and non-UK companies holding UK property. Following the consultation, draft legislation was published on 6 July 2018. An amended version of the legislation was incorporated into the Finance Bill that was published on 7 November 2018. The legislation has now been enacted in clause 17 of, and schedule 5 to, the Finance Act 2019. The changes took effect from 6 April 2020.</p> <p>See: Taylor Wessing briefing</p>	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	<p>At Budget 2018, the government announced that it would introduce a Structures and Buildings Allowance for new commercial structures and buildings, with relief given for eligible construction costs incurred on or after 29 October 2018, at an annual rate of 2% over a 50 year period.</p> <p>The Capital Allowances (Structures and Buildings Allowances) Regulations 2019 (SI 2019/1087) were made on 4 July 2019, and came into force on 5 July 2019. The regulations insert a new Part 2A into the Capital Allowances Act 2001. Taxpayer-facing guidance was published in August 2019, with further technical guidance published in HMRC's Capital Allowances Manual (at chapter CA90000) in October 2019.</p> <p>At Budget 2020, it was announced that the rate of Structures and Buildings Allowance would increase to 3% from 1 April 2020 (for businesses within corporation tax) or 6 April 2020 (for those within income tax). Legislation effecting this change is contained in clause 29 of the Finance Bill 2020.</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>	From April 2020, the rate of the Structures and Buildings Allowance increased to 3%	Red

Tax (continued)

Looking back

Issues	Status	Key Timing	Impact
<p>Introduction of capital gains tax for non-residents investing in commercial property</p> <p>Affects: (among others) non-UK residents investing in REITs and non-UK resident entities forming part of a UK REIT group</p>	<p>From 6 April 2019, the scope of the UK's taxation of gains accruing to non-UK residents was extended to include gains on direct and indirect disposals of UK commercial property. The charge on gains on disposals of UK residential property was also extended to widely-held vehicles. These changes affect non-residents investing in REITs and non-resident entities forming part of a UK REIT group.</p> <p>REITs were already exempt from UK tax on property gains. However, the REITs legislation was also amended to exempt from tax disposals of property rich entities by REITs. The 25% substantial interest test will not, however, apply to REIT investors, such that minority investors in REITs will be caught by the new rules.</p> <p>The legislation is contained in clause 13 of, and schedule 1 to, the Finance Act 2019.</p> <p>Amending regulations (The UK Property Rich Collective Investment Vehicles (Amendment of the Taxation of Chargeable Gains Act 1992) Regulations 2020, SI 2020/315) came into force on 10 April 2020. These regulations amend elements of the new rules to ensure that they operate as intended, and broadly take effect from 6 April 2019.</p>	6 April 2019	Red



TaylorWessing

| 4 | General corporate

UK REIT Horizon Scanner Q3 2020

General corporate

Key developments in H1 2020

- The UK left the EU on 31 January 2020 and the transition/ implementation period runs until 31 December 2020. An agreement on a future relationship needs to be in place by then to avoid a 'no deal' type scenario.
- A number of measures have been taken in response to the COVID-19 pandemic. In particular, in June the Corporate Insolvency and Governance Act came into force, Companies House has established several temporary policies and procedures, and industry bodies have issued guidance on a range of matters.
- The Equal Pay Bill was introduced in January, which would (among other things) widen the scope of reporting to include ethnicity pay gap reporting.

Issues	Status	Key Timing	Impact
COVID-19: The Corporate Insolvency and Governance Act Affects: all companies	<p>On 26 June 2020, the Corporate Insolvency and Governance Act 2020 (CIGA) came into force. It is designed to aid businesses in continuing to trade and comply with their legal obligations during the COVID-19 pandemic. Measures include:</p> <ul style="list-style-type: none">▪ Greater flexibility in how general meetings between 26 March and 30 September 2020 are conducted (including electronically holding and voting at such meetings, irrespective of whether this is permitted by the company's constitution).▪ The ability to postpone holding an AGM up to 30 September 2020, where a company is required (by statute or its constitution) to hold an AGM between 26 March and 30 September 2020.▪ A temporary extension to the period within which a public company is required to file its annual accounts and reports with Companies House.▪ Extended deadlines for certain company filings, including the periods specified in the Companies Act 2006 for filing company accounts and annual confirmation statements, and for registering charges.▪ The temporary suspension of parts of insolvency law to support directors in continuing to trade through the pandemic without threat of personal liability, including for wrongful trading with effect from 1 March to 30 September 2020.▪ New insolvency restructuring procedures first proposed in the BEIS March 2018 consultation (see also 'Looking Back' below). <p>The government has the power to make further extensions.</p> <p>BEIS and the FRC have published Q&As on company filings, AGMs and other general meetings. The guidance notes that, over the longer term, a move to a hybrid AGM format may be beneficial. The FRC plans to produce an assessment of best practice later this year.</p>	Up to 30 September 2020 (currently)	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
COVID-19: Companies House guidance on accounts filing deadlines Affects: all companies	<p>On 27 June 2020, the Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 came into force. The regulations temporarily extend various filing deadlines falling between 27 June 2020 and 5 April 2021:</p> <ul style="list-style-type: none"> the accounts and reports filing deadline by 3 months, to 12 months for private companies and 9 months for public companies the 14 day deadline for the annual confirmation statement after the end of a company's confirmation period to 42 days the 14 day deadlines for submitting certain notices of relevant events (for example, a change of director or a PSC) after they occur to 42 days, and the 21 day deadline for registering a charge to 31 days. <p>On 1 July 2020, Companies House published guidance on the regulations. Previous Companies House guidance on how companies affected by the pandemic could apply to extend accounts filing deadlines is still useful as it covers, for example, appealing any late filing penalties imposed.</p> <p>On 26 June 2020, Companies House published guidance on filing deadlines for public companies. For example, for a deadline falling between 26 March and 29 September 2020, it will extend the deadline to the earlier of 30 September 2020 or 12 months from the end of the accounting period.</p>	Up to 5 April 2021 (currently)	Green
COVID-19: Companies House emergency filing service Affects: all companies	<p>In response to the COVID-19 pandemic, Companies House launched a temporary emergency filing service to allow customers to file paper forms for which there was no online equivalent. It currently covers applications to correct or remove information from the register (forms RP02A, RP02B, RP03, RP06, RP07 and RPCH01) and change of constitution forms (CC01, CC02, CC04, CC05 and CC06).</p> <p>Companies House expects to expand the service to include more document types and features, such as acknowledgments and payments, resolutions and articles of association.</p>	During the pandemic	Green
COVID-19: Companies House temporary strike off policy Affects: all companies	<p>From 16 April 2020, Companies House temporarily suspended voluntary strike-offs initiated by directors, in order to give creditors and other interested parties more time to object. Compulsory strike-offs initiated when a company fails to file its accounts or annual confirmation statement on time were also temporarily suspended.</p> <p>On 1 June 2020 the changes were amended to include an exception from suspension where relevant law enforcement has concluded that a company is no longer in operation following an investigation, in which case the registrar will continue with strike off action. The changes are outlined in Companies House COVID-19 guidance.</p>	During the pandemic	Green

General corporate (continued)

Issues	Status	Key Timing	Impact
COVID-19: ICSA the Chartered Governance Institute guidance on meetings Affects: all companies	<p>Prior to CIGA coming into force, ICSA: the Chartered Governance Institute published various pieces of guidance on meetings that may still be useful during the pandemic:</p> <ul style="list-style-type: none"> ▪ guidance on holding board and committee meetings by virtual means; ▪ guidance for publicly traded companies on holding AGMs during the pandemic (although the guidance is also applicable to non-traded companies that convene an AGM); and ▪ supplementary guidance prepared by various law firms and industry bodies and reviewed by the government). 	Ongoing	Green
COVID-19: FRC statements and guidance Affects: all UK companies	<p>The FRC has published various pieces of guidance for companies and auditors during the COVID-19 pandemic. Among other things, the pandemic is expected to lead to more audited financial statements with disclosures on material uncertainties, that may cast doubt on an entity's ability to continue as a going concern. More modified opinions in auditor's reports than normal are also expected.</p> <p>Of particular interest is:</p> <ul style="list-style-type: none"> ▪ maintained guidance (last updated on 20 May 2020) for companies on corporate governance and reporting; ▪ Financial Reporting Lab guidance (published on 15 June 2020) on going concern, risk and viability disclosures; ▪ Financial Reporting Lab guidance (published on 15 June 2020) on providing information to investors on resources (including availability of cash), actions to manage short-term expenditure and viability, and the future; ▪ guidance for companies on disclosure of risks and other reporting consequences arising from the COVID-19 crisis; ▪ guidance on audit issues arising from the pandemic and guidance on when an auditor may need to modify its opinion; and ▪ the Financial Reporting Lab's first 2020 newsletter, containing a useful summary of recent COVID-19 public guidance. 	Ongoing	Green

General corporate (continued)

Issues	Status	Key Timing	Impact
Brexit related legislation Affects: general	<p>The UK left the European Union on 31 January 2020. There is a transition/ implementation period until 31 December 2020, during which the UK remains in substantially the same position as regards EU law as if it were a member state but without participation as a member state in EU institutions. An agreement on a future relationship needs to be in place by then to avoid a 'no deal' type scenario.</p> <p>The <u>European Union (Withdrawal) Act</u> was passed in June 2018 and a large amount of related legislation has been passed or is making its way through the UK Parliament. The Act will repeal the European Communities Act 1972, incorporate all relevant EU law into UK statute books, and gives ministers power to adapt and remove laws that are no longer relevant. Under legislation currently making its way through the UK Parliament, this would generally take effect at the end of the transition/ implementation period.</p> <p>At this stage, in the absence of precise information, the potential implications of Brexit at the end of the transition/ implementation period are beyond the scope of this horizon scanner, except for the temporary permissions regime for financial services firms (and potential lack of reciprocity from the EU on a 'no deal' Brexit) referred to in 'Financial regulatory' above, and reference to conforming rule changes and the potential cessation of prospectus passporting referred to in 'Capital markets' below.</p>	Key impact 31 December 2020 or later	Amber
Changes to Companies House forms after the implementation period Affects: all UK companies	On 31 January 2020, Companies House published guidance on the changes to its forms that will take effect after the implementation period, from 1 January 2021. For example, filing requirements for a UK company with EEA corporate officers will change.	1 January 2021	Green
EC action plan on money laundering and terrorist financing Affects: all companies	<p>On 7 May 2020, the EC published an action plan for a comprehensive EU policy on preventing money laundering and terrorist financing. Among other things, it proposes making parts of the Money Laundering Directives (including provisions on beneficial ownership registers) directly applicable through a regulation. This is to tackle perceived issues with diverging implementations by member states. A proposal on a single EU rulebook is expected in the first quarter of 2021.</p> <p>The EC will also monitor the quality of information on member states' beneficial ownership registers and aims to have interconnection of registers operational in 2021. It is also consulting on whether to strengthen EU tools to enforce anti-money laundering rules. The consultation closes on 29 July 2020.</p> <p>It is currently unclear to what extent the proposals will impact the UK after the transition/ implementation period ends on 31 December 2020.</p>	29 July 2020; 2021	Green

General corporate (continued)

Issues	Status	Key Timing	Impact
<p>Register of beneficial owners of overseas entities that own UK property</p> <p>Affects: non-UK companies (and their investors)</p>	<p>The proposal is to create a new register of beneficial owners of overseas entities that own UK property (following a similar test as that used for the PSC register). Draft legislation is set out in the draft Registration of Overseas Entities Bill (published on 23 July 2018). A report of recommendations (published on 20 May 2019) by the House of Commons and House of Lords Joint Committee on the draft Registration of Overseas Entities Bill, and the government's response to that (published on 18 July 2019), aim to improve the draft legislation. The government anticipates that, following royal assent and secondary legislation, the register will be operational in 2021.</p> <p>An overseas entity within scope of the legislation will need to provide information about itself and its beneficial owners. There are 25% ownership and voting thresholds for the definition of a registrable beneficial owner (although the government noted in its July 2019 response that the thresholds will be kept under review). Once registered, an overseas entity will need to update the information annually until it successfully applies to be removed from the register. With updating occurring only annually, concerns have been raised about the register's accuracy at the point at which dispositions of land take place; the government is still considering this aspect.</p> <p>There are criminal penalties for non-compliance and additional civil penalties are currently being considered. Further, a failure to register (or to comply with updating requirements) will result in:</p> <ul style="list-style-type: none"> an overseas entity being unable to register as a proprietor of UK land (necessary to obtain full legal title) via the three land registries of England and Wales, Scotland, and Northern Ireland; and certain dispositions made by a registered proprietor that is an overseas entity being incapable of registration at the land registry. <p>The government intends to publish guidance to help relevant parties understand the requirements. The register will, largely, be publicly accessible. Some information will be suppressed due to potential risk to individuals, such as date of birth and usual residential address. (This could affect non-UK subsidiaries in REIT groups.)</p>	Early 2021	Amber
<p>Gender and ethnicity pay reporting</p> <p>Affects: UK employers with 100 or more employees</p>	<p>On 3 July 2019, the Government Equalities Office published its roadmap for tackling gender equality which included, among other things, assessing the effectiveness of gender pay gap reporting and consulting on any changes by 2021.</p> <p>On 28 January 2020, the Equal Pay Bill (a private members' bill) was published. Among other things, it amends section 78 of the Equality Act 2010 to widen the scope of gender pay gap reporting to include ethnicity pay gap reporting, lower the reporting threshold to organisations with 100 or more employees (from 250), and requires more information to be published.</p> <p>The government previously suggested introducing an ethnicity pay gap reporting regime in its consultation from October 2018 to January 2019.</p>	2021	Amber

General corporate (continued)

Issues	Status	Key Timing	Impact
Modern slavery – human trafficking statement Affects: large companies	<p>On 9 July 2019, the government announced (in response to an independent review of the Modern Slavery Act) its intention to start auditing compliance with modern slavery statement requirements under section 54 of the Act and to establish a central registry of statements, to be available to organisations free of charge. This will presumably only increase public scrutiny of statements in the future.</p> <p>From 9 July to 17 September 2019, the Home Office consulted on how to make transparency requirements and reporting processes as clear and straightforward as possible. The response to that consultation is awaited.</p> <p>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 COVID-19 pandemic and that reason stated. Existing statutory guidance requires organisations within scope to publish a statement within six months of financial year end. The extension therefore likely extends this period to 12 months.</p>	Ongoing	Amber
Narrative reporting Affects: all companies other than 'small companies'	<p>On 2 July 2019, BEIS published the Green Finance Strategy which, among other things, includes an expectation that all listed companies and large asset owners will disclose in line with the Taskforce on Climate-related Financial Disclosures (TCFD) recommendations by 2022.</p> <p>From 5 December 2019 to 28 February 2020, the Climate Disclosure Standards Board (CDSB) consulted on disclosure of nature-related financial information in annual reports and the CDSB Framework's role for reporting environmental and climate change information.</p> <p>As part of the FRC's ongoing project on corporate reporting (the original call for participants was published on 30 October 2018):</p> <ul style="list-style-type: none"> on 21 January 2019 it published Artificial Intelligence and Corporate Reporting in which a number of possible uses for AI in corporate reporting were considered; between October and November 2019 it surveyed stakeholders on the future of corporate reporting (results are awaited); in Autumn 2019 it published a report on understanding citizens' views on the regulation of corporate reporting, corporate governance and audit; and on 20 January 2020 the FRC's Financial Reporting Lab reported on workforce-related corporate reporting, supporting reporting on culture, employee engagement and the workforce. 	Ongoing	Green

General corporate (continued)

Issues	Status	Key Timing	Impact
Late payment - government response to call for evidence Affects: large companies	<p>On 19 June 2019, BEIS responded to its October 2018 call for evidence on tackling late payment. This follows on from the duty on large companies to bi-annually publicly report on, among other things, how quickly they pay their suppliers, introduced by the Reporting on Payment Practices and Performance Regulations 2017. The response includes these corporate aspects:</p> <ul style="list-style-type: none"> There will be a tough approach to companies not complying with the duty (they may be prosecuted and fines may be imposed). BEIS is working with the FRC on a requirement for audit committees to review and report on payment practices in annual accounts, to give late payment sufficient board level attention. Guidance will be issued and this may also be subject to future legislation. On 30 October 2019, in its annual review of corporate governance and reporting for 2018/2019, the FRC stated that (among other things) it encourages boards to disclose, in their section 172 reports, the issues, factors and stakeholders they consider relevant in complying with the section and the basis on which they came to that view including, for example, consideration of reporting on payment to suppliers in line with the BEIS response. 	Ongoing	Green
Companies House reform Affects: UK companies	<p>From 5 May to 5 August 2019, BEIS consulted on company law changes to enhance Companies House's role, increasing the transparency of UK corporate entities and helping to combat economic crime by improving the accuracy and usability of the register. Significant reforms of the UK's company registration framework are proposed, including:</p> <ul style="list-style-type: none"> verifying the identity of individuals with a key role in companies, including officers (directors), people with significant control and those filing information (it is being considered whether this should extend to shareholders), extending Companies House powers to query and corroborate information before entry on the register and making it easier to remove inaccurate information, proposals on storage and control of access to personal information, including when and to whom it may be disclosed, and crosschecking data held by other government or private bodies, limiting the number of directorships held by any one individual, disclosing banking information, and action to deter the misuse of company names and addresses. <p>This will affect systems, processes and staffing at Companies House, which will likely increase fees. Publication of the findings is awaited.</p>	Ongoing	Green

General corporate (continued)

Issues	Status	Key Timing	Impact
Audit reform Affects: all companies	<p>From 19 July to 13 September 2019, the government consulted on CMA recommendations about statutory audit services. It suggests there should be clear expectations and standards for audit committees to ensure they deliver best results for shareholders, and that there should be a role in this for the new Audit, Reporting and Governance Authority (ARGA, which will replace the FRC). An update is awaited.</p> <p>The FRC 2020-21 draft plan and budget February 2020 consultation included transitional steps before the Kingman recommendations come into effect, as well as the FRC's redefined purpose, principles and objectives, and reorganisation into four divisions (regulatory standards and codes, supervision, enforcement, and corporate services). The final report of the Independent Review of the FRC led by Sir John Kingman (published on 18 December 2018) proposed, among other things, replacing the FRC with ARGA.</p>	Ongoing	Amber
Execution – electronic signatures Affects: all companies	<p>On 4 September 2019, the Law Commission reported on the electronic execution of documents. This followed an Autumn 2018 consultation on whether current law on electronic execution of documents and deeds might prevent the use of electronic signatures. Registered dispositions under the Land Registration Act 2002 were expressly excluded from the scope of the consultation.</p> <ul style="list-style-type: none"> The Law Commission concluded that an electronic signature is capable in law of being used to execute a document (including a deed) if the person signing the document intends to authenticate the document and any execution formalities are satisfied, and that an electronic signature is admissible in evidence in legal proceedings. It recommended to establish an industry working group to consider practical issues on electronic execution of documents and to provide best practice guidelines. A wider governmental review of the use of deeds was also recommended. <p>The government response (on 3 March 2020) agreed with the report's findings, including the need for a confirmatory 'legislative statement' (but not new legislation), establishing an industry working group, and reviewing the law of deeds (although stated not to be a high priority).</p> <p>On 7 May 2020, the Law Society published a new maintained guidance note on virtual execution and electronic signatures during the COVID-19 pandemic (last updated in June 2020). It is aimed at lawyers but also useful for others who deal with contract execution from time to time. At the same time, the Law Society updated its practice note on executing a document using an electronic signature.</p>	Ongoing	Green
EC consultation – fitness check on public reporting by limited companies Affects: UK and European limited companies	<p>The EC is currently carrying out a 'fitness check' of the EU framework on public reporting by companies, covering the Accounting Directive, Transparency Directive, Non-Financial Reporting Directive, Bank Accounts Directive, Insurance Accounts Directive and IAS Regulation. It is also looking at synergies and interaction with company law (including corporate governance and capital maintenance), digitalisation and corporate tax reforms. A public consultation was carried out on this between 21 March and 31 July 2018.</p>	Ongoing	Amber

General corporate (continued)

Looking back

Issues	Status	Key Timing	Impact
Energy and carbon reporting framework Affects: quoted companies, large unquoted companies and large LLPs	<p>The Companies (Directors' Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 implement the regime for streamlining energy and carbon reporting regime (SECR), requiring additional reporting in directors' reports on emissions, energy consumption and energy efficiency action.</p> <p>On 1 February 2019 BEIS published updated Environmental Reporting Guidelines which includes guidance on compliance with the SECR regime and best practice.</p>	Financial years on or after 1 April 2019	Amber
Audit reform Affects: all companies	<p>On 18 December 2019, BEIS published the final report of its independent review into the quality and effectiveness of audit led by Sir Donald Brydon. Recommendations include (among other things):</p> <ul style="list-style-type: none"> mechanisms to encourage greater shareholder interaction with audit, including the ability to pose questions to auditors at AGMs; new reporting requirements for directors about the company's resilience and responsibilities to the public interest, and audit policy; a requirement for audit committees to publish their minutes; amendment of auditing standards to make it clear that auditors should endeavour to find corporate fraud; a requirement for directors to explain the actions they have taken to prevent material fraud and to report on internal controls; obligations on auditors to report to both the audit committee and shareholders on external signals of concern; and extension of audit to areas beyond financial statements, including alternative performance measures. 	Ongoing	Amber
Corporate governance and companies approaching insolvency Affects: UK companies in or approaching insolvency (some aspects may affect all companies)	<p>On 26 August 2018, BEIS responded to its March 2018 consultation on the governance of companies in or approaching insolvency. Specific actions and areas of further consultation include:</p> <ul style="list-style-type: none"> strengthening transparency requirements around group structures (possibly with industry guidance or a requirement for large groups to provide corporate structure organograms and report on corporate governance through the group), strengthening shareholder stewardship (incorporating stewardship in asset managers' mandates and channels for investors to escalate concerns about company management), strengthening the framework on dividend payments (which may include giving shareholders an annual vote on dividends if the practice of avoiding shareholder votes by using interim dividends is found to be widespread and pressure is sufficient), greater accountability of directors in group companies when selling subsidiaries in distress enhancing insolvency practitioners' powers relating to value extraction schemes designed to remove value from a firm at the expense of creditors when a company is in financial distress. More details on the measures are awaited. 	Ongoing	Green



TaylorWessing

| 5 | Equity capital markets

UK REIT Horizon Scanner Q3 2020

Equity capital markets

Key developments in H1 2020

- A number of specific measures, relaxations and extensions have been published in response to the COVID-19 pandemic
- On 16 June 2020, the European Commission published for consultation a draft regulation supplementing the Prospectus Regulation regarding the minimum information content of an exemption document in connection with a takeover by means of an exchange offer, merger or division
- Changes to the Listing Rules took effect on 27 April 2020 relating to disclosure of rights attaching to securities

Issues	Status	Key Timing	Impact
Brexit related legislation – Official Listing of Securities, Prospectus and Transparency (Amendment) (EU Exit) Regulations 2019 and FCA consultations Affects: all listed companies	<p>The government has published a number of statutory instruments and policy notes, including the Official Listing of Securities, Prospectus and Transparency (Amendment etc) (EU Exit) Regulations 2019 (and accompanying Explanatory Memorandum) and the Prospectus (Amendment etc) (EU Exit) Regulations 2019, which by virtue of the European Union (Withdrawal Agreement) Act 2020 will take effect on the implementation period completion day, 11pm on 31 December 2020 ('IP completion day'). These aim to replicate, so far as possible, the current effects of the prospectus regime, transparency rules and listing rules and make a number of changes, including:</p> <ul style="list-style-type: none"> ▪ The FCA will need to approve prospectuses for use in the UK even if they have been approved by a competent authority of an EEA member state. Prospectuses passported into the UK before IP completion day may be used in the UK until their validity expires. ▪ Existing equivalence decisions on presentation of historical financial information in prospectuses will be domesticated into UK legislation. ▪ The HM Treasury has the power to issue equivalence decisions, and has done so in preparation for IP completion day, determining that EU-adopted IFRS can continue to be used to prepare financial statements for transparency requirements and to prepare a prospectus. <p>As things currently stand, FCA approved prospectuses could not be passported into the EU/ EEA, so approval by a relevant competent authority would be required for offers into those countries if applicable exemptions were not available.</p>	IP completion day	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
Brexit related changes to the FCA Handbook and technical standards Affects: listed companies	<p>On 29 March 2019, the FCA published the FCA Handbook Exit Instrument, which sets out, amongst other things, the changes that would be made to the Listing Rules in the event that the UK left the EU without a deal. Following agreement of the transition period, the FCA Handbook Exit Instrument will come into force on IP completion day.</p> <ul style="list-style-type: none"> The changes are intended to be those necessary to ensure the Handbook remains functional after Brexit and reflect any governmental legislative changes. Broader policy changes are not proposed. The proposals impact the Prospectus Regulation Rules, Listing Rules, DTRs and MAR regime and mainly update references to EU legislation, UK law which relates to or refers to the EU, EU institutions and concepts, and the EEA. <p>Subsequent FCA quarterly consultation papers (No. 25 and No. 26) include proposals for further minor amendments to the FCA Handbook, including amending the Prospectus Regulation Rules to reflect the onshoring of the Prospectus Regulation. The FCA also stated in FCA Handbook Notice No 73 that in light of the transition period, it has deferred the decision on making the instruments consulted on in chapter 7 of CP 19/27 until later in 2020.</p>	IP completion day	Amber
Brexit related changes to LSE rulebooks Affects listed companies	<p>On 7 March 2019, the LSE published proposed changes to its Primary Markets Rulebooks (and repeated these in October 2019). They aim to only reflect the new legal and regulatory framework which will apply if the UK leaves the EU with no deal and largely relate to glossary terms. They follow governmental changes proposed under the European Union (Withdrawal) Act 2018 and relate to admission and disclosure standards and AIM Rules.</p> <p>In the event that there is no-deal at the end of the transition period, the proposed changes to the AIM Rules are likely to be relevant still, but it is anticipated that, if they are, they are likely to be subject to an updated market notice.</p>	IP completion day	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
Prospectus Regulation - consultation on supplemental regulation on minimum content in 'exemption document' Affects: all companies offering consideration securities on a takeover	<p>On 16 June 2020, the European Commission published for consultation a draft regulation supplementing the Prospectus Regulation regarding the minimum information content of the document to be published for a prospectus exemption in connection with a takeover by means of an exchange offer, merger or division, known as an "exemption document". This follows ESMA's publication of its final report on technical advice on the minimum information content in March 2019.</p> <ul style="list-style-type: none"> The exemption document must contain the relevant information necessary to enable investors to understand (as well as the rights attaching to the equity securities, a description of the transaction and its impact on the issuer) the prospects of the issuer, and, depending on the type of transaction, of the offeree company, target company or company being divided, and any significant changes in the business and financial position of those companies that have occurred since the end of the previous financial year. There are reduced disclosure requirements if the equity securities offered are to be admitted to trading on a regulated market and are fungible with and represent no more than 10% of equity securities already admitted to trading on the same regulated market. <p>The consultation closes on 14 July 2020.</p>	Ongoing	Green
Prospectus Regulation – proposed changes to Commission Delegated Regulations Affects: companies listed on a regulated market and companies making public offers	<p>On 4 June 2020, the European Commission published two draft regulations to amend and correct Commission Delegated Regulations (EU) 2019/980 and (EU) 2017/979, which both supplement the Prospectus Regulation.</p> <p>Draft changes to Delegated Regulation (EU) 2019/979, on the format, content, scrutiny and approval of the prospectus, include:</p> <ul style="list-style-type: none"> Clarifying that issuers of certain types of convertible, exchangeable and derivative securities should be subject to the reduced disclosure rules applicable to non-equity securities. Placeholders for additional information about underlying shares, derivative securities and consent to use the prospectus (if applicable) to be inserted in the EU Growth prospectus (and other changes relating to the EU Growth prospectus). <p>The draft changes to Delegated Regulation (EU) 2019/980 on regulatory technical standards on key financial information in the prospectus summary primarily amend and correct minor aspects.</p> <p>Both draft regulations take effect on the third day following its publication in the Official Journal, save that some correcting provisions in both will apply retrospectively from 21 July 2019.</p>	Ongoing	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
Prospectuses – ESMA consultation on draft guidelines on disclosure requirements Affects: companies listed on a regulated market and companies making public offers	In the second half of 2019, ESMA conducted a consultation on the draft ESMA guidelines on disclosure requirements under the new Prospectus Regulation. ESMA was expected to publish a final report containing a summary of all consultation responses and a final version of the guidelines in Q2 2020.	Q2 2020	Green
Shareholder Rights Affects: companies listed on the Official List (premium and standard segments), Specialist Fund Segment or High Growth Segment	The Shareholder Rights Implementing Regulation (EU) 2018/1212 applies with direct effect from 3 September 2020 and lays down minimum requirements as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights for the purpose of the Directive amending the Shareholder Rights Directive (EU) 2017/828 ('SRD II'). Measures include: <ul style="list-style-type: none"> Information provided by issuers to intermediaries (and along any chain to shareholders) is to be in a format which allows processing in electronic and machine-readable formats. Information must be in the language in which the issuer publishes its financial information and in a language customary in international finance (unless not justified in light of the issuer's shareholder base). Issuers and intermediaries must implement technical and organisational measures aimed at ensuring security, integrity and authentication of information originated by the issuer or a third party initiating a corporate event when sending information to intermediaries, shareholders (or nominees), as well as to the issuer (or its nominee). This follows the implementation of SRD II in the UK on 10 June 2019.	September 2020	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
ESMA market abuse consultation Affects: listed companies	<p>From 3 October to 29 November 2019, ESMA consulted on MAR, including a general review of the definition of inside information, the timing of when information becomes inside information and when disclosure may be delayed, and whether there should be requirements around systems and controls for identifying, handling and disclosing inside information. The consultation also looks at the exception for buybacks, the market soundings procedure, insider lists, and the relevant thresholds for managers' dealings. ESMA plans to submit a final report to the European Commission by spring 2020.</p> <p>While the UK is part of the EU, any amendments to MAR would need to be made through EU legislation. Given the likely timescale required to implement any such amendments and the end of the Brexit implementation period on 31 December 2020, it is likely that those amendments will not form part of UK law and it would be up to the UK to decide whether to make similar amendments in due course.</p>	Ongoing	Amber
The Covid Corporate Financing Facility (CCFF) Affects: investment grade private sector businesses making a material UK contribution and not PRA- or FCA-regulated	<p>On 17 March 2020, the UK government announced a number of measures designed to support businesses, including the joint HM Treasury and Bank of England lending facility, named the Covid Corporate Financing Facility (CCFF). The facility is designed to support liquidity among larger firms, helping them to bridge coronavirus disruption to their cash flows through the purchase of short-term debt in the form of commercial paper.</p> <p>At a summary level, to be eligible for the scheme, applicants need to:</p> <ul style="list-style-type: none"> ▪ Make a material UK contribution ▪ Be investment grade rated (or equivalent) as at 1 March 2020 ▪ Not be PRA- or FCA-regulated <p>See: Taylor Wessing briefing</p>	Ongoing	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
COVID-19 measures – market conduct Affects: listed companies	On 27 May 2020, the FCA published issue 63 of its Market Watch newsletter , setting out its expectations of market conduct in the context of increased capital raising events and alternative working arrangements due to COVID-19. <ul style="list-style-type: none"> ▪ Issuers should continue to assess carefully what information constitutes inside information as COVID-19 and public policy responses to it may alter the nature of information that is material to a business's prospects and material in the context of a recapitalisation. ▪ Given the different risks that arise from working from home, issuers may want to reaffirm that persons on insider lists are aware of when they have access to inside information and of their legal and regulatory duties in relation to insider dealing. ▪ Issuers should carefully monitor whether any new information is materially different from previous forecasts, guidance, or signals announced publicly and which would now be likely to be misleading to investors. 	Ongoing	Amber
COVID-19 measures – reporting Affects: listed companies	On 27 May 2020, the FCA published its 28th Primary Market Bulletin , focused on issues resulting from COVID-19, including: <ul style="list-style-type: none"> ▪ Temporary relief for half-yearly financial reports. ▪ Market practice on going concern assessments. ▪ Shareholder engagement. 	Ongoing	Green
COVID-19 measures – reporting Affects: Main Market companies	On 26 March 2020, the FCA announced that all listed companies who are required to comply with DTR 4.1 will be given an additional two months to publish their audited annual financial reports. The temporary relief does not extend to half yearly financial reports which should be published within three months of the half year end in accordance with DTR 4.2. On 26 March 2020, the London Stock Exchange published an Inside AIM newsletter , setting out that AIM companies with financial year ends between 30 September 2019 to June 2020 will be able to apply to AIM Regulation for a three-month extension to the reporting deadline for the publication of its annual audited accounts pursuant to AIM Rule 19.	Ongoing	Green
COVID-19 measures – reporting Affects: AIM companies	On 20 March 2020, AIM Regulation published an Inside AIM newsletter setting out temporary measures it proposes to implement during the COVID-19 pandemic. This was followed by a further Inside AIM newsletter on 26 March 2020, setting out that AIM companies with financial year ends between 30 September 2019 to June 2020 will be able to apply to AIM Regulation for a three-month extension to the reporting deadline for the publication of its annual audited accounts pursuant to AIM Rule 19.	Ongoing	Green
COVID-19 measures – shares issuances Affects: listed companies	On 8 April 2020, the FCA published a statement of policy on listed companies and recapitalisation issuances during COVID-19 and technical supplements on working capital statements and modification of general meeting requirements under the Listing Rules. Key assumptions in relation to business disruption during the COVID-19 crisis underpinning the company's reasonable worst-case scenario will be permitted to be disclosed in an unqualified working capital statement in a prospectus or circular.	Ongoing	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
COVID-19 measures – thresholds for new issues Affects: listed companies	On 1 April 2020, the Pre-Emption Group published a statement on its expectations for issuances in the current circumstances, recommending that investors, on a case-by-case basis, consider supporting issuances by companies of up to 20% of their issued share capital on a temporary basis.	Ongoing	Green
COVID-19 measures – corporate governance and reporting Affects: listed companies	The FRC has published guidance for companies on corporate governance and reporting during the COVID-19 pandemic. It was first published on 26 March 2020, highlighting key areas of focus for boards in maintaining strong corporate governance and providing high-level guidance on issues for companies preparing their annual report and other corporate reporting. Subsequent updates on 13 May 2020 included interim reports and on 20 May 2020 included exceptional items and alternative performance measures.	Ongoing	Green
COVID-19 measures – reporting and APMs Affects: listed companies	On 20 May 2020, ESMA issued a public statement setting out recommendations for the preparation of interim financial statements and interim management reports for the 2020 half-yearly reporting period in the context of COVID-19. The statement is also relevant to financial reporting in other interim periods where IAS 34 is applied. On 17 April 2020, ESMA also published an updated version of its Q&As on guidance to issuers on application of the ESMA guidelines on alternative performance measures (APMs), including a new Q&A on the application of the guidelines in the context of COVID-19.	Ongoing	Green
COVID-19 measures – reporting threshold on short positions Affects: listed companies	ESMA published a decision (ESMA70-155-10189) renewing its March 2020 decision to temporarily require the holders of net short positions in shares traded on an EU regulated market to notify the relevant national competent authority if the position reaches or exceeds 0.1% of the issued share capital after the entry into force of the decision.	Ongoing	Green
COVID-19 measures – Investment Association Affects: listed companies	On 8 April 2020, the Investment Association published a letter addressed to the chairs of all FTSE 350 companies setting out certain views of its members in relation to COVID-19. Matters covered include: <ul style="list-style-type: none"> ▪ Open dialogue with shareholders and other stakeholders over the coming months. ▪ Companies and auditors to take the necessary time to prepare and audit their accounts, using the additional 2 months, if needed. ▪ Encourages companies to consider how to effectively engage with their shareholders in lieu of an AGM. ▪ Prudent approach to dividend payments is expected, without unnecessary reductions. Companies who suspend dividend payments should restart them as soon as prudent to do so. Companies should be transparent, particularly if seeking additional capital. 	Ongoing	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
ESG - FCA consultation on climate-related disclosures Affects: UK premium listed companies	<p>On 6 March 2020 the FCA published a consultation paper (CP20/3) on proposals intended to enhance climate-related disclosures by listed issuers and clarify existing ESG disclosure obligations. This follows the FCA response to its October 2018 consultation (Climate Change and Green Finance) published on 16 October 2019.</p> <p>The FCA proposes to introduce a requirement for commercial companies with a UK premium listing to include a statement in their annual report setting out:</p> <ul style="list-style-type: none"> ▪ Whether they have made disclosures consistent with the recommendations and recommended disclosures of the Task Force on Climate-related Financial Disclosures ('TCFD') in their annual financial report. ▪ If not (or the disclosures are in a different document), an explanation of why. ▪ Where in the annual financial report (or other relevant document) the various disclosures can be found. <p>In determining whether the disclosures are consistent with the TCFD recommendations and the recommended disclosures, companies should have regard to the TCFD's guidance for all sectors, supplemental guidance for the financial sector and supplemental guidance for non-financial groups, although other TCFD publications will also be relevant.</p> <p>Financial services firms with a premium listing will fall within the scope of the new rule. It is clarified that this is in their capacity as issuer not a regulated firm. This is particularly relevant to asset managers as supplementary guidance by the TCFD sets certain expectations regarding disclosures to clients. The FCA is still considering how best to enhance climate-regulated disclosures by asset managers and other regulated firms.</p> <p>The changes would apply in relation to accounting periods beginning on or after 1 January 2021. The consultation closes on 1 October 2020 (extended from the original date of June 2020 due to COVID-19).</p> <p>The consultation also includes a proposed new technical note, 'Disclosures in relation to ESG matters including climate change', which lists provisions in the LR, DTR, Prospectus Regulation and MAR, explains the application of certain provisions in the LR, DTR, Prospectus Regulation and MAR and indicates where, in the opinion of the FCA, ESG matters may need to be taken into consideration.</p>	1 January 2021	Amber

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
ESG - Non-Financial Reporting Directive Affects: Large public interest entities with +500 employees and other companies choosing to include non-financial statements in their strategic report	<p>On 20 February 2020, the European Commission published a consultation on possible revisions to the Non-Financial Reporting Directive ('NFRD'), including a possible common standard for non-financial information incorporating standards such as the recommendations of the Task Force on Climate-related Financial Disclosures. The original deadline for feedback was extended to 11 June 2020 due to COVID-19.</p> <p>This followed a separate impact assessment consultation published by the Commission on 30 January 2020 on a possible initiative to revise the non-financial reporting regime, potentially involving changes to the NFRD, to address perceived problems regarding inadequate publicly available information about how non-financial issues impact companies, how companies impact society and the environment, and the incurring of unnecessary and avoidable costs by reporting companies. That consultation closed on 27 February 2020.</p> <p>On 20 May 2020, the Commission published an adjusted work programme for 2020 which indicates that the planned adoption date for its review of the NFRD has moved to Q1 2021. That date will be after the end of the Brexit implementation period.</p>	Q1 2021	Green
FRC consultation on climate change reporting Affects: UK premium listed companies	<p>On 20 February 2020 the FRC announced a review of how companies assess and report on the impact of climate change, to consider how the quality of information can be improved to support informed decision-making by investors and other stakeholders.</p> <p>It will include a review of a sample of company reports and accounts to assess the quality of their compliance with climate change reporting requirements and a review of disclosures under the UK Corporate Governance Code.</p>	Ongoing	Green
Revised ICSA guidance on audit, remuneration, nomination and risk committee terms of reference Affects: listed companies	<p>On 14 February 2020, ICSA: the Chartered Governance Institute published revised guidance notes on terms of reference for audit, remuneration and nomination committees. On 1 June 2020, it published a revised guidance note on terms of reference for risk committees.</p> <p>The notes have been updated to reflect the 2018 UK Corporate Governance Code, the FRC's 2018 guidance on board effectiveness and (for risk committees) the FRC's 2014 guidance on risk management, internal controls and related financial and business reporting. In addition, the duration of appointments have been amended in the model terms of reference for audit committees. Other changes to the risk committee guidance include, for example, provisions on information sharing between committees, composition, duration of appointments, and number of meetings per year.</p>	Ongoing	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
Parker Review on ethnic diversity on boards Affects FTSE 350 companies	<p>The Parker Review Committee published its final report into the ethnic diversity of UK boards on 12 October 2017. Its recommendations included a target that there should be at least one director of colour on each FTSE 100 board by 2021 and each FTSE 250 board by 2024.</p> <p>FTSE 100 and FTSE 250 companies should develop mechanisms to identify, develop and promote people of colour within their organisations to ensure that there is a pipeline of board capable candidates and their managerial and executive ranks appropriately reflect the importance of diversity to their organisation. Companies were encouraged to adopt the recommendations on a voluntary basis, however if there is insufficient progress, the Parker Review Committee may endorse that the recommendations become mandatory.</p> <p>On 5 February 2020, the Parker Review Committee published an update report, indicating that while companies are not yet up to speed, there has been movement and it might still be possible to meet the targets. There is a specific section on investment trusts. The FRC is monitoring how companies report on their policies or explain their lack of progress in this area and is expecting improvements.</p>	2021 and 2024	Amber
ESMA consultation on short-term pressure on corporations Affects: large companies	<p>On 18 December 2019, ESMA published a report on short-term pressure on corporations in securities markets following its consultation (in June/July 2019). Recommendations for action in relation to ESG disclosures and institutional investor engagement included:</p> <ul style="list-style-type: none"> ▪ Improve ESG disclosures, which should respect a minimum level of comparability, relevance and reliability. ▪ Amend the NFRD to include principles for high quality non-financial information and a set of specific disclosure requirements. ▪ Include the non-financial statement in issuers' annual financial reports and mandating assurance on its content and consistency with other information in the annual financial report. ▪ Review the Public Statement on Information on shareholder cooperation and acting in concert under the Takeover Directive (the White List), in particular whether the White List should include coordination among institutional investors for ESG risks. ▪ Consider a vote on the non-financial statement to allow investors to express views on how companies address sustainability risks. ▪ Monitor the broader application of the Shareholder Rights Directive to assess whether it encourages long-term engagement. ▪ Consider if member states should be required to have an adequate independent monitoring framework for remuneration of listed company directors, to ensure the quality of information disclosed in remuneration reports published by companies. <p>The Commission will now decide whether to initiate legislative changes to address these recommendations and monitor the effect of certain legislative acts to assess whether there is a need for further action.</p>	Ongoing	Amber
Executive pay and short-termism research Affects: listed companies	<p>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.</p>	Ongoing	Green

Equity capital markets (continued)

Issues	Status	Key Timing	Impact
Reporting in European Single Electronic Format Affects: Companies on Main Market and Specialist Funds Segment	<p>The Transparency Directive requirement for all annual reports for companies on EU regulated markets to be prepared in in a single electronic reporting format applies for financial years beginning on or after 1 January 2020.</p> <p>All such reports must be in Extensible Hypertext Markup Language ("XHTML"), an electronic language which enables a document to be tagged so that it can be 'machine read', whilst remaining easily readable by a person. The rules apply irrespective of the company's country of incorporation.</p> <p>The Commission delegated regulation adopting the regulatory technical standards sets out specific items within the annual report which must be tagged.</p> <p>The Disclosure Guidance and Transparency Rules have been updated, with DTR 4.1.14R implementing the ESEF requirement for issuers for financial years beginning on or after 1 January 2020.</p> <p>The AIC has published a guidance note on the ESEF.</p>	Financial years beginning on or after 1 January 2020	Amber
Related party transactions – proposed new technical guidance Affects: premium listed companies	<p>From 3 October to 14 November 2019, the FCA consulted on a proposed new technical note, 'Class testing changes to an investment management agreement where there are unquantifiable benefits', to clarify its approach where the benefit of the transaction is unclear and class tests difficult to apply. It includes some questions the FCA may ask, explains its approach in certain circumstances (such as where changes relate to payment of the fee being made via something of the same value other than cash), and states that it accepts that where there is a benefit to a related party, but not a quantifiable financial benefit, the percentage ratio is in effect zero. An update is awaited.</p>	Awaiting update	Amber
Corporate governance consultations Affects: UK listed companies	<p>From May to July 2019, ICSA consulted on the effectiveness of independent board evaluation in the UK listed sector. The aim is to assess the quality of evaluations and find ways to improve them. Feedback is awaited.</p> <p>On 28 May 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.</p>	Ongoing	Green

Equity capital markets (continued)

Looking back

Issues	Status	Key Timing	Impact
Amendments to the Listing Rules Affects: Main Market companies	<p>On 27 March 2020, the FCA published Handbook Notice 75, summarising its response to feedback on the proposed changes to the Listing Rules set out in quarterly consultation paper No. 26 (CP19/33)., confirming that the proposed amendments would be made. The changes took effect on 27 April 2020:</p> <ul style="list-style-type: none"> Changes relating to disclosure of rights attaching to securities, by the insertion of new continuing obligations to require issuers with listed securities to keep publicly available in the National Storage Mechanism, at all times whilst the securities remain admitted to the Official List, either the securities' approved prospectus, a document with the securities' terms and conditions, or a description of the securities' rights and how to exercise those rights. Amendment of LR 13, Annex 1 (documents on display for class 1 transactions) to clarify that the SPA or equivalent document does not have to be available online; a hard copy needs to be available for inspection and the issuer needs to state where it is located. 	27 April 2020	Amber
New Stewardship Code Affects: premium listed companies and investors	<p>The FRC published a revised version of the Stewardship Code on 24 October 2019, which took effect from 1 January 2020.</p> <p>Most of the 2012 Code's principles and guidance were retained, but new requirements aligned it with the 2018 UK Corporate Governance Code, including "apply and explain" principles for asset owners and managers and separate principles for service providers. It requires annual reporting of stewardship activity and outcomes.</p> <p>Signatories are expected to take ESG factors into account and ensure their investment decisions align with clients' needs.</p>	1 January 2020	Green

Equity capital markets (continued)

Looking back

Issues	Status	Key Timing	Impact
Investment Association statement on executive pensions in 2020 AGMs Affects: listed companies	<p>The Investment Association's new IVIS guidelines for 2020's AGM season (published on 27 September 2019), on pension contributions for existing executive directors, may be relevant to internally managed companies. See also IA: Initiatives: Corporate governance.</p> <ul style="list-style-type: none"> ▪ If an existing director's pension contribution is 25% or more of salary, IVIS will amber top the remuneration report (as currently). ▪ Remuneration committees should disclose a credible action plan to reduce directors' pension contributions to the majority of the workforce level by the end of 2022 – if such a plan is not disclosed, IVIS will red top the remuneration report if any executive director's pension contribution is 25% or more. <ul style="list-style-type: none"> ▪ Fixing the monetary value of contributions over time is generally not considered a credible action plan. ▪ The remuneration report should disclose the contribution rate of the majority of the workforce and how it was derived. ▪ Confirmation should be given that future accrual, for defined benefit pension schemes, is still open to other employees on the same terms as executive directors - if not the remuneration report will be amber topped. ▪ Where a cash supplement in lieu of further accrual above an earnings limit is paid, confirmation should be given that such supplements are also paid to other employees on an equivalent basis – if not the remuneration report will be amber topped. 	2020 AGM season	Amber
Investment Association principles of remuneration in 2020 AGMs Affects: listed companies	<p>On 1 November 2019, the Investment Association published updated Principles of Remuneration and an open letter to remuneration committee chairmen of FTSE 350 companies, setting out key areas of focus for 2020 AGMs including (among other things) that:</p> <ul style="list-style-type: none"> ▪ Performance conditions should be measurable over long periods, and performance periods clearly linked to timing for implementation of business strategy (no less than three years, ideally longer), with additional holding periods expected so that total performance and holding periods should be at least five years. ▪ Remuneration committees should have discretion in incentive schemes allowing them to limit vesting outcomes if a specific monetary value is exceeded. ▪ Post-employment shareholding requirements should be established for all executive directors at the earliest opportunity, and at a minimum by the company's next policy vote. ▪ Investors will continue to scrutinise increases to basic salary or variable pay and expect remuneration committees to show restraint on overall quantum. ▪ Pay for performance must be justified by robust transparency on financial, strategic and personal targets so that the link between pay and performance is clear; strategic and personal targets and outcomes should be disclosed separately. 	2020 AGM season	Amber



TaylorWessing

| 6 | Key contacts

Key contacts

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.

Key contacts



William Belcher

Partner, London
Private Capital and Corporate Finance

+44 (0) 20 7300 4221
w.belcher@taylorwessing.com



Alan Evans

Partner, London
Real Estate

+44 (0) 20 7300 4637
a.evans@taylorwessing.com



Charlotte Hill

Partner, London
Financial Services

+44 (0) 20 7300 7011
c.hill@taylorwessing.com



Peter Jackson

Partner, London
Tax

+44 (0) 20 7300 4721
p.jackson@taylorwessing.com



Mark Rajbenbach

Partner, London
Real Estate

+44 (0) 20 7300 4121
m.rajbenbach@taylorwessing.com

1000+ lawyers **300+** partners **28** offices **16** jurisdictions

Austria	Klagenfurt Vienna
Belgium	Brussels
China	Beijing Hong Kong Shanghai
Czech Republic	Brno Prague
France	Paris
Germany	Berlin Düsseldorf Frankfurt Hamburg Munich
Hungary	Budapest
Netherlands	Amsterdam Eindhoven
Poland	Warsaw
Slovakia	Bratislava
South Korea	Seoul*
UAE	Dubai
Ukraine	Kyiv
United Kingdom	Cambridge Liverpool London London TechFocus
USA	New York Silicon Valley

* In association with DR & AJU LLC

© Taylor Wessing LLP 2020

This publication is not intended to constitute legal advice. Taylor Wessing entities operate under one brand but are legally distinct, either being or affiliated to a member of Taylor Wessing Verein. Taylor Wessing Verein does not itself provide services. Further information can be found on our regulatory page at:

www.taylorwessing.com

TaylorWessing