

NOVEMBER 2017

EQ Boardroom Bulletin

Welcome to your bulletin of what is happening
in the world of share registration and employee share plans



As we head into autumn the focus on regulation and corporate governance shows no signs of letting up. With the deadline for MiFID II now only a matter of months away, GDPR will also impact in late spring of 2018. From a corporate governance perspective the government has released its latest response to their green paper in which they call upon the ICSA, IA and GC100 to support them in implementing their recommendations. During September Equiniti Boardroom held its annual share registration and employee share plans conferences, and published its annual review of trends and developments during the 2017 AGM season. Throughout this month's update we will examine some of the key topics discussed and questions asked by both corporate issuers and their investors.



Upcoming events...

02 Nov '17	Prism Year-end Briefing (London)
02 Nov '17	Shares Awards
07 Nov '17	Prism Year-end Briefing (Edinburgh)
16 Nov '17	Edinburgh Year-end Drinks Reception
21 Nov '17	IR Society Awards
28 Nov '17	ICSA Awards
05 Dec '17	FTSE250 Networking Group
06 Dec '17	ProShare Awards
12 Dec '17	EQuivalence Forum
13 Dec '17	St. Paul's Year-end Drinks Reception



Articles in this edition...

- Key statistics from the AGM season and share registration conference
- The Investment Association (IA) – Publishes analysis of the 2017 AGM season voting on remuneration and director re-election resolutions
- MiFID II & GDPR – is your business ready?
- Corporate governance – Government green paper
- Financial Reporting Council (FRC) – Publishes their factsheet on non-financial reporting
- The Pre-Emption Group – No changes to its Statement of Principles
- HM Revenue & Customs (HMRC) – Publishes guidance on country-by-country reporting
- Court of Appeal case - access to a company's Register of Members

EQUINITI

2017 AGM season review

Equiniti has published its annual review of trends and developments during the 2017 AGM season compiled using the data and insight from our AGM and Company Secretarial teams.

A review of the types of questions asked at FTSE 350 AGMs revealed some interesting trends. While well publicised remuneration issues were top-of-mind, shareholders also asked questions in relation to environmental, social and governance issues, diversity and importantly about the impact of Brexit. The report also discusses AGM logistics, electronic general meetings, business of the meeting and much more.

The report is available [here](#) and your relationship manager will be happy to discuss it with you in more detail.

The Investment Association (IA) has published its own analysis of the votes cast for remuneration and director re-election resolutions

The analysis covers FTSE 350 company AGMs between January and July 2017.

The IA's main finding is that investors are effectively holding FTSE100 and FTSE250 companies and their individual directors to account on executive remuneration. The key points to come out of the analysis are:

- There are indications that FTSE100 companies have listened and acted on 2016 investor rebellions, with a 35% decrease in 2017 remuneration resolutions that received over 20% dissent
- FTSE250 companies were more in the spotlight with a 100% increase in companies getting 20% or more of votes against their remuneration resolutions compared to 2016
- FTSE350 companies overall saw a 300% increase in votes against a Director re-election
- 6 FTSE350 companies withdrew resolutions on pay ahead of the company AGMs to avoid a shareholder rebellion

The IA statement is available [here](#) on their website.

Share Registration Conference and Employee Services success

It was great to see so many of our clients at the conference and forum and we'd like to extend a particular thanks to those who supported us on our panel and breakout sessions. Similar to the topics raised at AGMs, these sessions teased out the latest focus on corporate governance, executive pay, the potential impact of and readiness for BREXIT and how it might shape the UK's future.

The ES forum also had you considering in groups, board engagement and the gender pay gap as well as Global Plans and SIP. As you might expect however, the requirements and readiness for MiFID and GDPR were also high on the agenda.

MiFID II

As has now been widely publicised any EU business performing regulated activities will be required to comply with MiFID II from January 3rd 2018.

“ MiFID regulation reaches far and wide and will increase the amount of data required prior to trading; transparency of information made available to the regulators; and the provision of details to the investors.

Equiniti has been issuing detailed guidance on all aspects of MiFID which are available to view [here](#).

Our latest update, 'Countdown to MiFID II' highlights MiFID II Investor Information changes that are now required in 2018 and its impacts. In addition, our relationship management team have been holding individual meetings with impacted clients to discuss how best to address the requirements.

GDPR

Discussions on the General Data Protection Regulation (GDPR) focused on how it now applies to every organisation holding personal data about EU citizens, covers digital identities, increases the rights of data subjects and changes who is classified as data processors and controllers.

Equiniti is well advanced with our GDPR project and will

be communicating with our clients in the coming months to both provide comfort that our systems and procedures comply with the regulations and to help fully understand and implement any required changes.

Corporate Governance Review

The three key areas covered in the green paper address Executive Pay, Employee Engagement and increased governance of Private Companies and various Industry bodies were asked to respond with recommendations addressing certain aspects.

The Financial Reporting Council (FRC) has been asked to consult on a code provision to strengthen the voice of employees on boards, something which when put to a vote at the share registration conference saw 50% of the audience state that a designated non-exec director would be the best way to address this, with 37% going for a designated employee advisory council and 13% a director from the workforce.

The FRC has also been tasked with revising the UK Corporate Governance Code to set out steps a company should take when encountering significant shareholder opposition and how pay incentives align across a company.

New secondary legislation will be adopted simplifying pay structures and requiring companies to report annually the ratio of CEO pay vs. that of the average employee and all companies will be required to explain how directors regard employee interests and foster relationships with suppliers, customers and others.

Companies will need to publish the CEO Pay Ratio, update the Public Register when 20% of shareholders oppose pay packages, organise votes on pay policy and thoroughly engage the remuneration committee, shareholders, and employees.

The GC100 has also been invited to publish guidance on the practical interpretation of the director's duty as stated in s172 of the Company's Act, whilst the ICSA and the IA have been asked to provide guidance on practical ways in which companies can engage with their employees and other stakeholders at board level. You can access the response on the ICSA website [here](#).

In advance of a response to a practical interpretation of

s172, the FRC has published a consultation on proposed amendments to its Guidance on the Strategic Report, stating that the changes will encourage businesses to consider the interests of stakeholders.

“ Specifically, the FRC is aiming to improve the effectiveness of section 172 of the Companies Act 2006 which requires directors to have regard to a number of matters, including the long term impact of any decisions, the interests of stakeholders; and non-financial matters, in pursuing their duty to promote the long term success of the company.

It also stresses the importance of making non-financial reporting an integral part of the annual report.

The consultation is available [here](#).

The FRC has also published a factsheet on reporting required by the EU Directive on Non-Financial and Diversity Information

The new regulations apply to a subset of large companies and qualifying partnerships that are required to produce a Strategic Report. The factsheet covers which companies fall within the scope of the regulations, what needs to be disclosed and how the requirements fit in with existing narrative reporting.

The new regulations apply to financial years beginning on or after 1 January 2017. The factsheet is available [here](#).

The Pre-Emption Group

The Pre-Emption Group has stated that it does not intend to change the pre-emption thresholds set out in its 2015 Statement of Principles following introduction of the EU Prospectus Regulation.

Under the Prospectus Regulation, which came into force on 20 July 2017, companies may admit further shares to trading without a prospectus as long as they represent less than 20% of the same class of security (calculated over a 12 month period). Previously, the threshold was 10%. The Investment Association and the Pension and Lifetime Savings Association continue to support the current threshold of 10% for a disapplication of pre-emption rights as set out in the

Pre-Emption Group's 2015 Statement of Principles.

The Pre-Emption Group's Statement of Principles is available [here](#).

HM Revenue & Customs (HMRC) has published guidance on country-by-country reporting

Qualifying multinational groups must notify HMRC and send a report each year on certain aspects of their business activities.

Generally, the requirements apply to UK resident ultimate parent companies of multinational groups with a consolidated revenue of €750 million or more.

The guidance enables companies to check whether they meet the criteria, how to register with HMRC to send reports, how to file the report, filing deadlines and penalties. The information required in the report includes information such as revenue, profit before tax and income tax paid in each jurisdiction in which the group does business.

Reports must be filed within 12 months of the financial year end. The guidance is available [here](#).

Court of Appeal case (Richard Charles Fox Davies vs. Burberry PLC)

The Court of Appeal has ruled on whether a request for access to a listed company's Register of Members was for a proper purpose, providing clarity on the proper purpose test for authorising access to register of members.

“ Under the Companies Act 2006 (the Act) a company has five working days to either comply with the request or apply to the Court on the grounds that the request is not for a proper purpose.

As 'proper purpose' is not defined in the Act case law helps establish what constitutes 'a proper purpose'.

In this case the register copy request made in respect of Mr Davies's lost shareholder tracing business was originally not for proper purpose, and the decision was appealed. The appeal was dismissed with the three appeal judges provided different reasons for reaching

their decision. What was agreed by the judges was that the failure to provide the names and addresses of the persons to whom the information on the register would be given constituted a failure to comply with the requirements of the Act.

There is no distinction between members and non-members of the company making a request and the fact that the shareholders were required to pay a fee before he would disclose details of the shares deemed the request not a proper purpose.

Overall, the appeal went in the company's favour albeit on a narrower set of circumstances than in the initial ruling. Unfortunately, this means that there is still some uncertainty for companies around what constitutes a proper purpose and when requests may be rejected on these grounds. A copy of the case is available [here](#).



Get in touch...

As always we look forward to hearing your feedback, please speak to your Equiniti contact or alternatively email: marketing@equiniti.com

To find out more about our Equiniti events, click [here](#) or for Prism events click [here](#) or speak to your Equiniti contact.

