Ashurst

AGC Conference 2024 - Planning your 2025 AGM and reporting agenda

Wednesday 27 November 2024

AGC Conference 2024 - Planning your 2025 AGM and reporting agenda

Timings	Agenda
8:30 – 9:00	**Registration and breakfast**
9:00 – 9:10	**Welcome introduction** Will Chalk, Ashurst
9:10– 10:10	**Preparing for sustainability reporting requirements and Transition Plans – what you need to know** Eleanor Reeves, Ashurst; Maria-Laure Knapp, Ashurst; Florian Drinhausen, Ashurst; Becky Clissmann, Ashurst; and Claire Bodanis, Falcon Windsor
10:10 – 11:10	**Governance, reporting and AGMs in 2025** Will Chalk, Ashurst; John Papadakis, Ashurst; Ruby Hamid, Ashurst; and Maureen Beresford, Financial Reporting Council
11:10 – 11:30	**Questions**
11:30 – 12:00	**Networking and refreshments**

Speakers

Will Chalk
Ashurst
Partner, Corporate Governance

Florian Drinhausen
Ashurst
Partner, Corporate Governance

Eleanor Reeves
Ashurst
Partner, Environment & Safety

Ruby Hamid
Ashurst
Partner, Dispute Resolution

John Papadakis
Ashurst
Counsel, Incentives

Maria-Laure Knapp
Ashurst
Director, Risk Advisory Climate Change and Sustainability

Becky Clissmann
Ashurst
Sustainability Counsel

Maureen Beresford
Financial Reporting Council
Head of Corporate Governance

Claire Bodanis
Falcon Windsor
Founder

Preparing for sustainability reporting requirements and Transition Plans

What we will cover

1 Overview of current state of play in the UK

2 Overview of current state of play in the EU

3 Reflections on market practice (TCFD, CSRD, TPs etc)

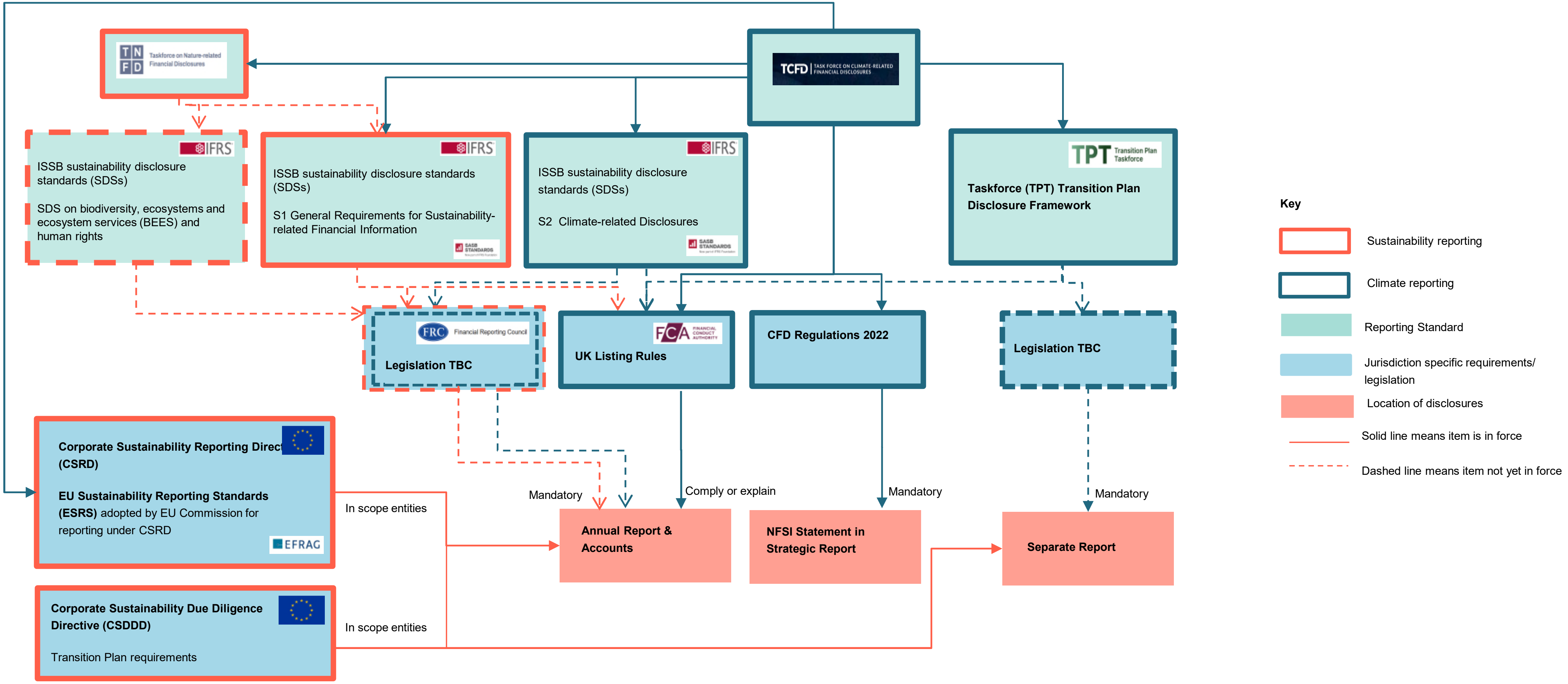
4 Dealing with the unintended consequences of sustainability reporting regulation

Ashurst

Sustainability: Overview of the current state of play in the UK

Becky Clissmann

UK overview of sustainability & climate reporting



ISSB Standards

What? Why? When?

The global baseline for sustainability disclosures

What?

- June 2023, ISSB published:
  - **IFRS S1** General Requirements for Disclosure of Sustainability-related Financial Information
  - **IFRS S2** Climate-related Disclosures
- S1 and S2 disclosures to be part of a company's general financial reporting package

Why?

- ISSB Standards consolidate several sustainability and climate-related disclosures including TCFD recommendations and SASB Standards
- Provide a single global baseline for sustainability disclosures for jurisdiction-specific requirements to be built on

When?

- Effective for annual reporting periods beginning on or after 1 January 2024
- Adoption by individual jurisdictions determines if they become mandatory and which entities must report against them

Interoperability

IFRS and EFRAG

- **May 2024** - Joint IFRS / EFRAG Guidance on interoperability
- **June 2024** - ISSB Feedback statement on its May 2023 consultation on Agenda Priorities and its 2024-2026 workplan. Key areas of focus:
  - Implementation of S1 & S2
  - The interoperability of S1 and S2
  - Research projects on risks and opportunities associated with biodiversity, ecosystems and ecosystem services (BEES) and human capital
  - Transition Plans now that the IFRS Foundation has taken over responsibility for the Transition Plan Taskforce's (TPT's) Disclosure Framework and Guidance documents
  - Working with CDP, TNFD and GRI on harmonising standards
- **September 2024** – Guidance on voluntary use of S1 & S2
- **November 2024** – Guidance on identifying material information

UK sustainability reporting standards (SRS)

Adoption of the ISSB standards

2023 | 2024 | 2025

Steps taken in 2023

- FRC July 2023 'Call for Evidence' on UK adoption of ISSB Standards
- UK government October 2023 call for evidence on Scope 3 emissions reporting in the UK and effectiveness of SECR regime

Steps taken in 2024

- UK Sustainability Disclosure **Technical Advisory Committee** (TAC) started its **assessment** of IFRS S1 and S2 in Q2 2024
- May 2024 –policy paper on framework to develop UK sustainability reporting standards (SRS) and update on UK's Sustainability Disclosure Requirements (SDR)
- TAC to provide recommendations to the Secretary of State for Business and Trade in Q4 2024
- Government November 2024 response to Scope 3 emissions reporting call for evidence

Action in 2025

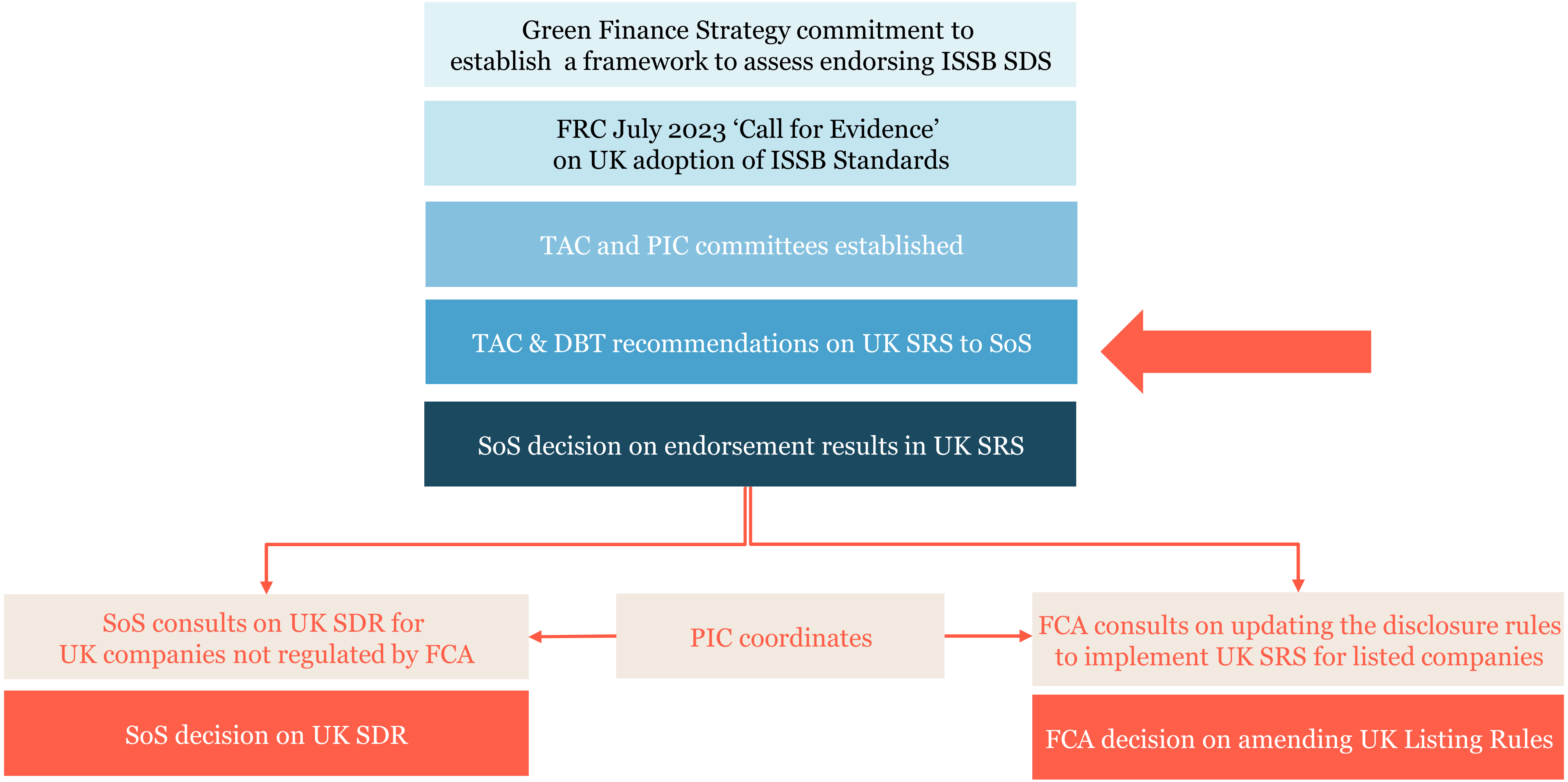
- Consultation on draft UK SRS in Q1 2025
- Government aims to make endorsement decisions on the first two UK SRS and publish them in Q1 2025
- In Q2, the government will consult on disclosure requirements against the UK Sustainability Reporting Standards for UK companies that do not fall within the FCA's regulatory perimeter
- FCA will consult in 2025 on updating disclosure rules in the Listing Rules to UK SRS

Meanwhile, FCA recommends companies should:

- Continue to improve climate reporting
- Engage early with S1 and S2 and the guidance - consider voluntary reporting
- Follow UK endorsement process

UK SDS and SRS

The process to apply ISSB standards in the UK



Transition Plans in the UK

Timeline

April 2022
Transition Plan Taskforce (**TPT**) launched

October 2023
TPT Disclosure Framework and Implementation Guidance

April 2024
Sector-specific guidance published for 7 sectors

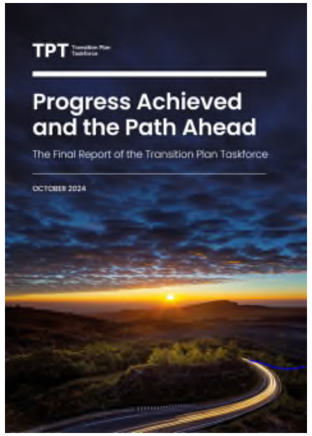
October 2024
Transition Finance Market Review (TFMR) report on recommendations to scale transition finance

October 2024
TPT final report

2024/ 2025
FCA to consult on changes to Listing Rules to reference ISSB and consider TPT outputs as basis to strengthen TP disclosure expectations of listed cos
UK government consultation on making TPs mandatory anticipated

Scaling transition finance

- Despite significant growth in green finance, a substantial gap of US $7+ trillion remains in the funding required to support the global transition
- Defines Transition Finance
- Recommendations on how to scale transition finance
- Suggests a Transition Finance Classification System (TFCS) and Guidelines for Credible Transition Finance



Next steps for TPs

- Adoption of TPs is accelerating globally
- Outlines four key areas to ensure that TPs are widely adopted
  - Building climate market capabilities
  - Developing enabling tools to support the preparation and use of TPs
  - Integrating TPs into decision-making
  - Promoting shared norms and expectations for TPs

Taskforce on Nature-related Financial Disclosures

The Why and What of TNFD

Why?

- TNFD estimates more than half of the world's economic output is moderately or highly dependent on nature.
- Unprecedented rate of biodiversity loss and ecosystem degradation or collapse presents physical, transitional and systemic risks for businesses.

What?

- A voluntary framework for organisations to identify, assess and report on nature-related risks in their financial reports.
- Intended to encourage a shift in global financial flows away from nature-negative outcomes.
- Modelled on TCFD Framework: 14 recommendations grouped by 4 TCFD pillars.

Transition Plans in the UK

Timeline

March 2023
Green Finance Strategy committed to explore how to incorporate into UK policy and legislation

September 2023
TNFD Disclosure Recommendations & Guidance published

December 2023
TNFD sector guidance published

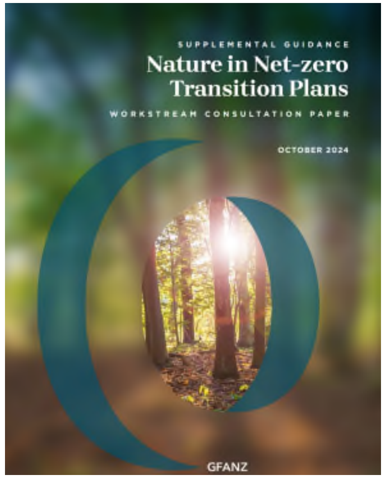
January 2024
Over 320 organisations globally commit to make nature-related disclosures

October 2024
TNFD Consultation on draft guidance on developing NTPs

October 2024
GFANZ Consultation on guidance for financial institutions on incorporating nature into net zero transition plans

TNFD Consultation

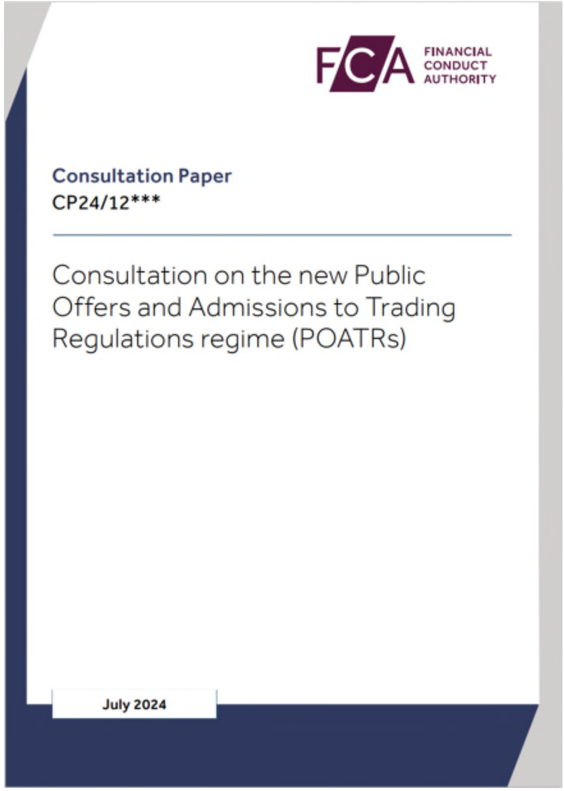
- Published 27 October 2024 at CBD COP 16 in Columbia
- Draft guidance for corporates and financial institutions on developing and disclosing nature transition plans (NTPs)
- Builds on Climate TP frameworks – GFANZ, TPT with nature specific adaptations
- Final guidance to be published in 2025



Who will be covered?

- Published 27 October 2024 at CBD COP 16 in Columbia
- Guidance to support financial institutions to voluntarily integrate nature considerations in their net-zero strategy and plans
- Focuses on 3 main actions: (i) reduction of nature-related GHG emissions (ii) protection and increase of nature-related GHG sinks (natural climate mitigation) and (iii) embedding nature-related considerations into approach and planning

Sustainability disclosures in Public Offers and Admissions to Trading Regulations regime (POATRs)



- July 2024 - FCA Consultation on the new POATRS regime – CP24/12.
- Proposed rules for companies seeking to admit securities to a UK regulated market or primary multilateral trading facility (Primary MTF) under the new POATR framework.
- Chapter 6 outlines the proposed sustainability-related disclosures.
- Disclosures by issuers of equity securities or depositary receipts representing equity shares when climate-related risks or climate-related opportunities (together CROs) identified as material to the issuer's prospects.
- Issuers may refer to the TCFD Recommendations and Recommended Disclosures or IFRS S2.
- Some information eligible as protected forward looking statement (PFLS).
- Minimum climate-related disclosures on governance arrangements to assess CROs, actual and potential impacts on business strategy and financial planning, risk assessment and management and metric and targets.
- Use of specific standard not mandated.
- TPs – summarise key information if already have a published TP and where it can be inspected. Specific frameworks not mandated.
- TN 801.2 to refer to ISSB SDS for sustainability-related information beyond climate.
- Additional guidance for mineral companies?
- Proposals additional disclosures for sustainability-labelled debt instruments.

Sustainability: Overview of the current state of play in the EU

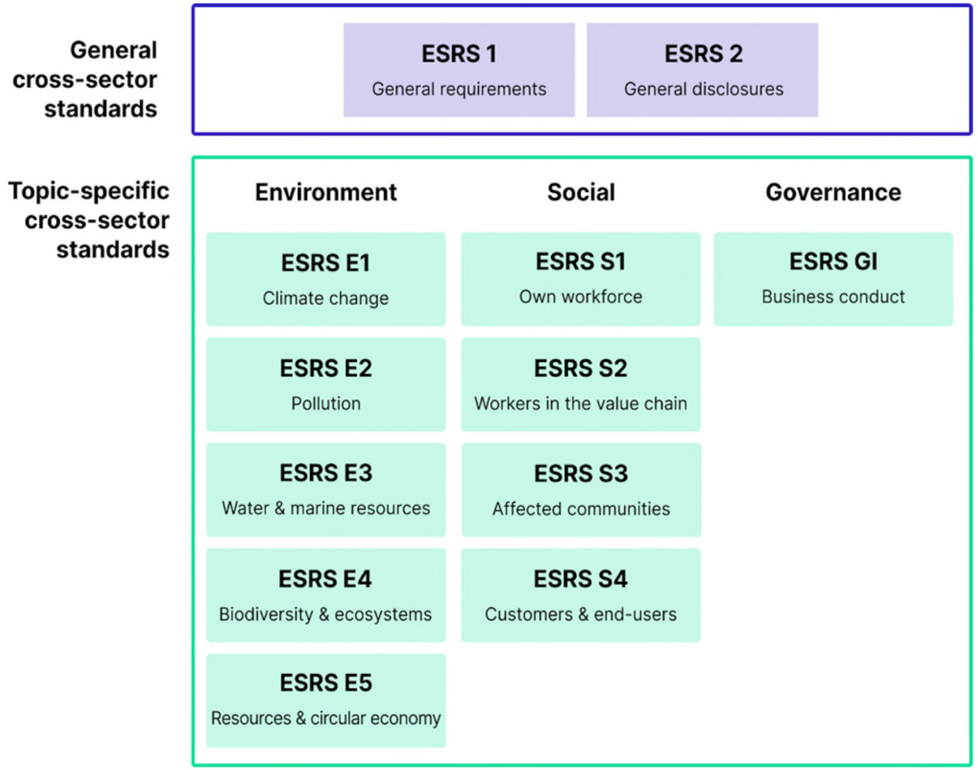
Florian Drinhausen

The CSRD in Germany

- Directive adopted by the European Commission in 2022 and implemented into national law by the member states in July 2024.
  - Not yet finalized in Germany and in 16 other EU member states
- Estimated annual compliance cost for the German economy: approximately **€1.4 billion**, with around **15,000 companies** affected.
- **Phased reporting requirements** starting in the 2025 reporting season for large companies with 500+ employees; SMEs will follow later.
- Many companies, while not directly required to report, are indirectly obliged to provide sustainability-related information as part of the value chain of reporting companies.

What does CSRD-reporting look like?

- CSRD reports must comply with the European Sustainability Reporting Standards (ESRS).
- "Dual materiality approach": Evaluating both the impact of the environment on the company (outside-in) and the company's impact on its environment (inside-out).
- 37 DAX companies already have audited NFRD reports; 5 have audited reports to ESRS standards; 34 report Scope 3 emissions.
- The reports are between 28 and 211 pages long.
- All DAX 40 companies still have a way to go.



Source: *Mays/Daphne*, The European Sustainability Reporting Standards explained (ESRS), circularise, July 2024.

Sustainability due diligence – the EU perspective

Corporate Sustainability Due Diligence Directive (CSD3)

What?

- Requires in-scope companies to identify, prevent, end, or mitigate adverse human rights and environmental impacts arising from operations, incl. those of subsidiaries and upstream and downstream business relationships in "chain of activities."
- Requires a due diligence policy and appropriate due diligence measures to:
  - identify, prevent and mitigate adverse impacts
  - establish and maintain a compliance procedure
  - monitor effectiveness of due diligence policy and measures
  - report on due diligence
- Requires stakeholder engagement and steps to prevent/ mitigate potential adverse impacts and end/ minimise actual adverse impacts
- May require termination of business partner as last resort for severe adverse impacts and where prevention/ mitigation measures failed/ no reasonable expectation they would succeed
- Requires transparent notification mechanism/ complaints procedure and whistleblower protection
- Requires in-scope companies to produce Paris-aligned climate Transition Plans

When and who?

- Will apply to 'large EU companies' and also large non-EU companies 'active ' in the EU meeting certain thresholds
  - EU companies/ groups - €450m worldwide turnover and 1000+ employees.
  - Non-EU companies/ groups - €450m EU turnover or franchisee with €22.5m EU licences and €80 EU turnover
- The Commission will have to publish a list of in-scope non-EU companies
- In-scope financial undertakings - their DD applies only to the upstream part of their business, but not the downstream activities of business partners that receive their services/ products

Current status?

- CSD3 adopted on 24 April 2024 and came into force 20 days after publication in Official Journal
- Member States have 2 years to implement
- Phased introduction between 2027-2029 depending on size

Sustainability due diligence – the EU deforestation Regulation

- **In force**: 29 June 2023
- **Coverage**: Rules for certain commodities and derived products associated with deforestation and forest degradation (cattle, cocoa, coffee, palm oil, rubber, soya and wood)
- **14 November 2024**: EU Parliament voted on EU Commission’s proposal to delay the implementation timeline by a year
- 8 amendments adopted including creation of a new category of countries posing "no risk“ in Commission's system to classify countries as low/standard or high risk, which will be subject to less stringent requirements (NB WTO compatibility concerns)
- The proposal is subject to **inter-institutional negotiations** and must be approved by the Council and Parliament before it can be enacted
- If agreement reached, medium and large sized companies will be required to comply with the EUDR as of **30 December 2025** (30 June 2026 for micro and small enterprises)
- If agreement **NOT** reached operators must comply with the regulations from **30 December 2024** until a resolution is reached

Ashurst

Reflections on market practice

Eleanor Reeves & Maria-Laure Knapp, Ashurst

UK market challenges in climate reporting

What are UK companies aligning with, publishing and planning?

- Routine uptake of **sustainable reporting assurance** but still limited with significant cost variations.
- First **climate-related enforcement investigation** by FCA reported.
- Potential greenwashing risk from disconnect between Paris Agreement-aligned 1.5c net zero transition (SBTi) pathways and **real-world shift to above 1.5c.**
- Controversies and challenges to inclusion of **offsets in SBTis.**
- Challenges to achieve useful narrative **climate scenarios.**

Global trends and challenges in reporting

What do global trends tell us about the direction of travel?

- Increased adoption of **ISSB standards.**
- Uptake across more jurisdictions of adoption of **mandatory climate disclosures.**
- Momentum towards **broader sustainability reporting**, over and above climate.
- **TCFD reporting** still on the rise, but not comprehensive.
- Companies **lagging on integration** through strategic scenario planning, strategy design and financial and commercial considerations of climate impact.
- (Over-) **focus on risk** vs opportunities.
- Significant **variation in published climate action plans** - a work in progress and need increasing rigour.

AGC Conference
Dealing with the unintended consequences of sustainability reporting regulation

Claire Bodanis 27 November 2024

FalconWindsor

Where is ESRS 1?

FW

There is no ESRS 1!

Point 1

We must *think for ourselves* how best to report

New sustainability reporting standards:

an inspiring purpose

Point 2

The double materiality analysis is a strategic **not** a reporting exercise

DMA: financial materiality
or impact materiality
or both

DMA:

Group level,

in granular detail,

is easiest

DMA: financial materiality
or impact materiality
or both

Point 3

doing the DMA properly and reporting logically against ESRS will set us up well for IFRS S1 and S2

The purpose of reporting

To build a relationship of trust with investors and other stakeholders through truthful, accurate, clear reporting that people believe because it tells an honest, engaging story.

**My definition, supported by UK Government representatives during a consultation in 2023.*

Point 4

Tell the story –
and provide the evidence

Tell the story –

in the strategic report by referencing the material issues in the relevant places

Provide the evidence – in the sustainability statement

Point 5

make a virtue of the standards' lack of clarity – and be brave in pursuit of the purpose of reporting

In approaching the new standards, remember:

Point 1: We must *think for ourselves* how best to report

Point 2: The double materiality analysis (DMA) is a strategic *not* a reporting exercise

Point 3: Doing the DMA properly and reporting logically against ESRS will set us up well for the ISSB standards, IFRS S1 and S2

Point 4: Tell the story in the strategic report, and provide the evidence in the sustainability statement

Point 5: Make a virtue of the standards' lack of clarity – be brave in pursuit of the purpose of reporting *by thinking for ourselves*

Useful source – October webinar on the new standards

With:

- **Jonathan Labrey** of the IFRS/ISSB
- **Harriet Cullum** of Diageo
- **Janice Lingwood**, Governance Expert and member of the ICAEW Non-Financial Reporting Committee

Watch here.

"So much clear and practical insight packed into 45 mins!"

FTSE 100 audience member

Thank you

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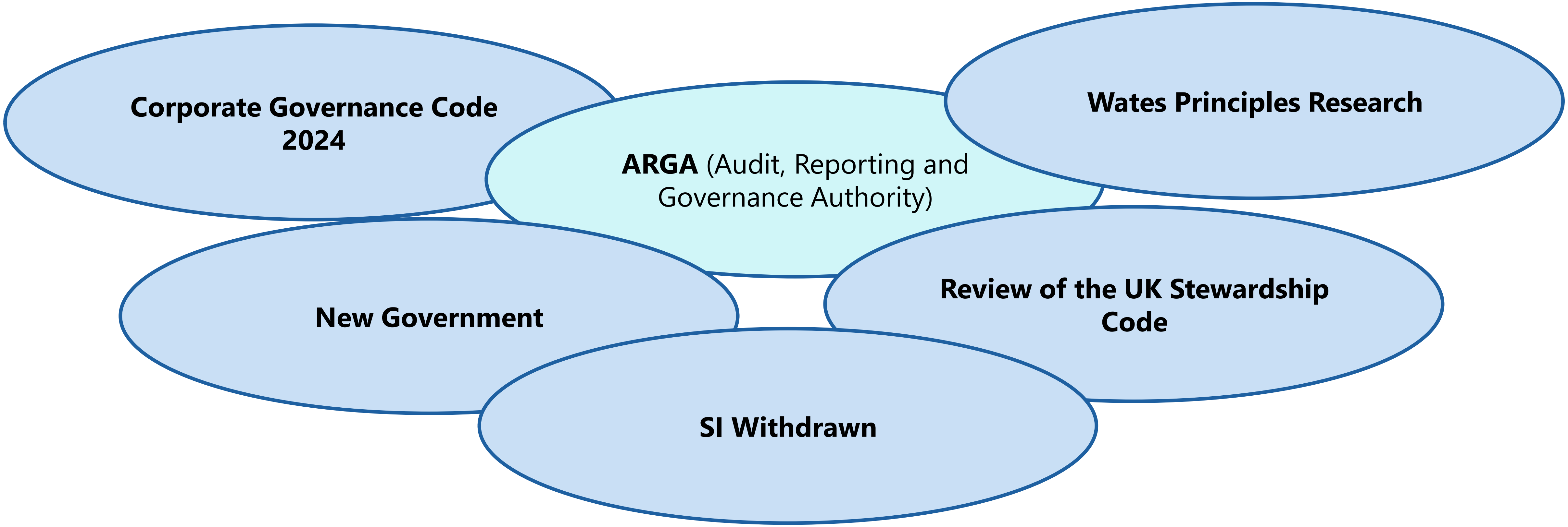
Key issues of 2024



Annual Review of Corporate Governance Reporting

This year we published a series of podcasts along with our Annual Review which can be found on the FRC website.

Compliance

- This year we found fewer companies chose to **depart from the Code**. When departing from the Code, we would like to remind companies that the explanation should be clear and provide sufficient detail.
- We found 28 instances of non-compliance compared to 63 last year.

Outcomes

- We found that a few companies attempted to demonstrate the positive outcome of their culture quantitively.
- We continue to see some good examples in relation to stakeholder engagement with many companies providing examples of outcomes and clearly linking this to feedback from stakeholders.

Annual Review of Corporate Governance Reporting

Workforce and Stakeholder Engagement

- Continue to see high-quality reporting on Workforce and Stakeholder Engagement.
- In line with Provision 5, the board does need to provide detail on how stakeholder and the matters under Section 172 have been considered. It is often unclear whether companies are referring to decisions taken by the company or actual decisions made by the board.

Over-boarding

- Our review examined how companies currently address the issue of **over-boarding** in their annual reports. We were pleased to see some good examples of reporting in this area.

The Board considers the number of board positions that the Director holds at other public companies alongside the likely 'size' of their new role. It also takes into account externally published guidance and proxy voting guidelines to ensure the principles of major investors in respect of 'overboarding' are considered.

Annual Review of Corporate Governance Reporting

Risk Management and Internal Controls

- There were no early adopters of Provision 29, however, a number of companies did refer to the new Provision and outlined how they are going to prepare for it.

- 25 companies in our sample did not report on whether a review of the effectiveness of internal controls had been carried out.

Cyber and Information Technology

- 89% of companies included cyber security as a principal risk.

- This year we have seen a significant increase in reporting on AI with 73% of companies discussing AI related matters.

Information security, IT infrastructure and data privacy risks

In addition to receiving updates on the key risks associated with technology across the Group, including notable incidents, regulator developments, governance and strategy, the Committee was regularly updated on Artificial Intelligence (AI), IT infrastructure, operations enhancement and the global cyber security threat landscape.

Annual Review of Corporate Governance Reporting

Viability

- We have refined the viability statement section in our updated 2024 Corporate Governance Code Guidance.
- 36 companies noted the use of reverse stress testing within their viability statement.
- There is significant scope for improvement in this area of reporting. Including sufficient qualitative and quantitative information is crucial for enabling readers to fully understand a company’s assessment.

Remuneration

- Many company’s remuneration practices remain at a very high standard.
- New Provision 38 asks companies to provide further descriptions of their malus and clawback provisions. We have observed early reporting against this new Provision within our analysis this year.

Corporate Governance Code 2024 – Key changes

Effective from 1 January 2025

Outcomes

Principle C sets out the expectation that companies should, when reporting on their governance activity, focus on the outcomes of these activities to demonstrate the impact of policies and practices.

Outcomes reported on should be **material and of use to the reader** and include topics which are relevant to stakeholders. The aim of the change is to reduce 'boiler plate' reporting.

Objectives:
- What are the objectives most relevant to the strategic aims of the company?
- Which issues are key to stakeholders?

Decisions:
- What decisions have been taken in order to achieve these objectives?
- Is the alignment between the company's strategy and decisions taken clearly explained?

Actions:
- What actions have been taken in order to achieve these objectives?
- What policies and procedures have the board implemented subsequently or are planning to implement?
- What are the milestones that the board expects to achieve in working towards those objectives and what progress has been made already?

Impacts:
- What impact have these actions had or are expected to have on stakeholders and the company?
- Have the actions had the intended impact? If not, how might the board review its actions to achieve the desired objective?

Corporate Governance Code 2024 – Key changes

Effective from 1 January 2025

Culture

- Provision 2 extends from assessing and monitoring culture to also include **embedding**.

Diversity

- We have amended Principle J and Provision 23 in this Section, which were aimed at placing diversity and inclusion at the heart of succession planning and appointments processes.

- We have made changes to Principle J asking companies to promote diversity, inclusion and equal opportunity, without referencing specific groups. Removal of the list of diversity characteristics indicates that diversity policies can be wide ranging.

- A change has made to the third bullet point of Provision 23 to reflect the fact that companies may have additional initiatives in place alongside their diversity and inclusion policy. Such policies should reported on in terms of outcomes not just that a company has signed up – the 'so what' test.

Corporate Governance Code 2024 – Key changes

Effective from 1 January 2026

Risk and internal control

Principle O

- Principle O merges the requirements of the former Principle C and existing Principle O. The new Principle O also makes the board responsible not only for establishing, but also for maintaining the effectiveness of, the risk management and internal control framework.

Provision 29

- Provision 29 has been amended to build on the current requirements of the Code by setting out clearer reporting expectations including on the evidence gathered by the company in support of its reporting.
- The 2018 Code already includes a reference to all material controls, including financial, operational and compliance controls. The scope of the Provision will remain the same but will include 'reporting' controls. This is not an exhaustive list therefore 'reporting' is not being added due to it being omitted in the 2018 Code, it was just not one of the examples.
- Some surprising responses regarding scope and specificity (asking for all terms to be defined, e.g. material control).
- Provision 29 was altered from the original proposal due to feedback on the similarity to US SOX, issues with the declaration period and respondents feeling more time was needed to develop frameworks over non-financial controls.

UK CGC Guidance

User-friendly

- The Guidance has been reduced in size with a focus on making it easier to read.
- It is now available online, allowing users to navigate quickly to sections relevant to them.

Interactive

- Clickable links in the Code and in the Guidance take the user directly to sections of interest.
- There are also links to other FRC and external publications which contain relevant material.

Up to date

- The Guidance is kept under review and updated (if necessary) on the first Wednesday of the month. A change log if available.
- This ensures links continue to work, and Guidance can be kept up to date with FRC and external developments.

The Wates Principles – Review of Reporting

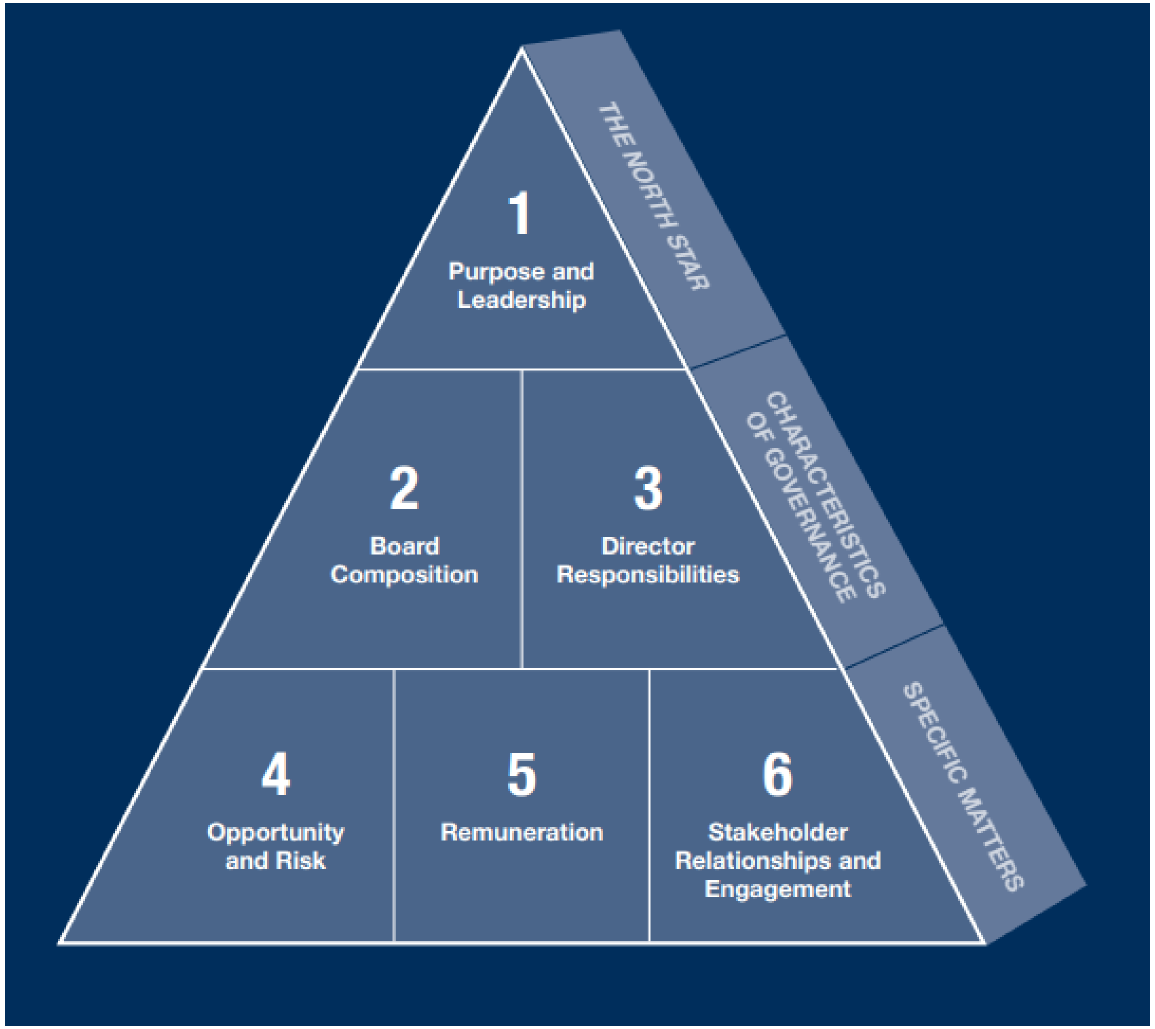
Key Findings

- Of the 1,815 companies in scope of the Regulations, 547 companies chose to apply the Wates Principles in the reporting period.

- We found slight improvements in most disclosure scores for each Principle.

- Findings highlight the need for companies to reduce boilerplate reporting and provide context- relevant and time-specific disclosures.

- Feedback from the focus groups showed unanimous interest in the usefulness of the Wates Principles disclosure , primarily in terms of conveying the trustworthiness of the purpose, strategy and governance.



UK Stewardship Code Consultation

Refining the definition of Stewardship

2020 Code definition

"Stewardship is the responsible allocation, management and oversight of capital to create long-term value for clients and beneficiaries ***leading to sustainable benefits for the economy, the environment and society***."

Proposed new Code definition

"Stewardship is the responsible allocation, management and oversight of capital to create ***long-term sustainable value for clients and beneficiaries***."

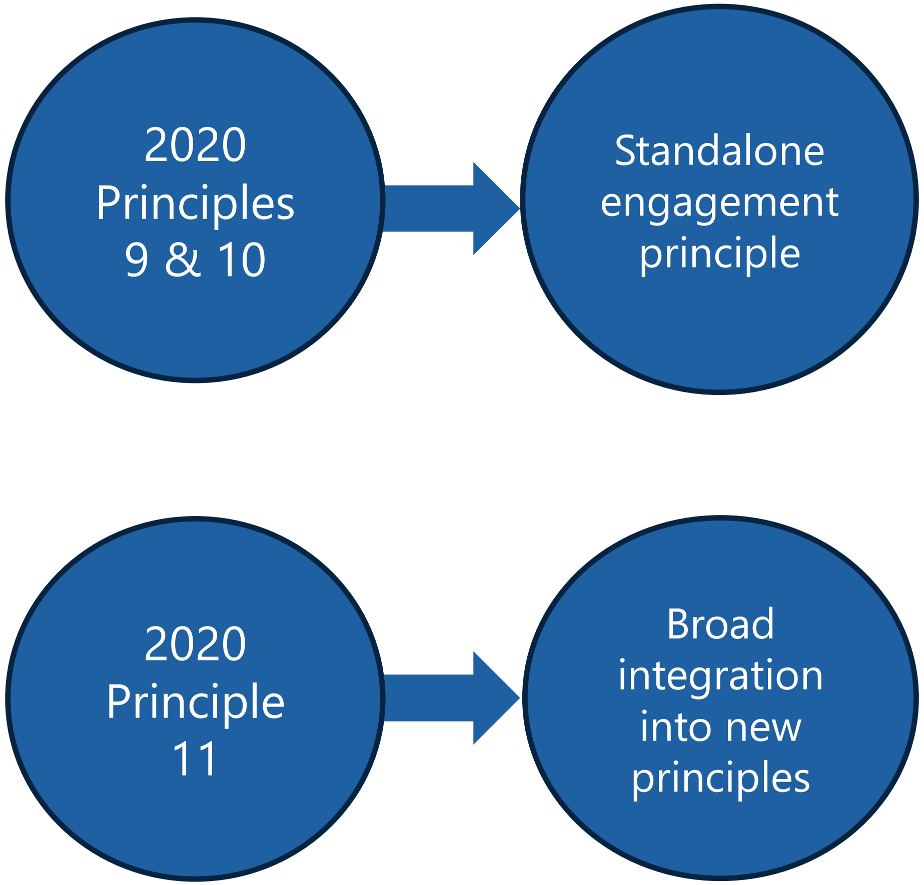
To be accompanied by supporting text including "Stewardship that supports sustainable, long-term returns may lead to wider benefits for the economy, the environment and society."

Reasoning

View heard from the stakeholder engagement that the term "leading to" may be interpreted as wider benefits being an obliged outcome of creating value for clients.

Streamlined Principles

Revisions to the 2020 Code



Information requested

Engagement:

- Principles 9 &10 under the 2020 code asked for disclosure under engagement with issuers and collaborative engagement respectively
- Suggestion is to have one 'Policy and Disclosures report' engagement expectation
- Collaboration under the proposed code is seen as one method of engagement, is referenced explicitly under 'How to report' prompts
- Recognises collaboration isn't relevant to every signatory

Escalation:

- Would no longer be its own principle
- Instead, is included under 'How to Report' section of 'Activities and Outcomes Report' principles 2, 3 & 4
- Intended to signal that escalation isn't its own objective, but necessary to achieving stewardship objectives

Streamlined Principles

"How to report" prompts and supportive guidance

2020 Code

"Reporting expectations" – some of them don't apply to all signatories, potential 'box-ticking' disclosure

Proposed new code

"How to report" prompts + guidance

Guidance

Sample guidance – similar with CG Code guidance, provides more narrative and examples, allows signatories to tell their story in a way that is tailored to their organisation and approach

Describe the progress you have made towards your objectives, or outcomes that have resulted.

If an engagement has concluded within the reporting period, you can report on the outcome. However, some engagements may extend over several reporting periods. Updating on ongoing engagements is encouraged and provides valuable insights into your stewardship approach. When doing this, it will be helpful to provide some context for your reader and explain the progress made during the reporting period, as well as any next steps planned. This should help the reader to assess the effectiveness of your stewardship.

Questions to consider

- Have your objectives been achieved?
- How have you measured progress?
- Have you experienced any setbacks during the engagement? How did you approach these?
- How has the engagement informed your investment decision-making?

Dedicated Principles for different entities

Asset owners and asset managers

2020 Code

“Principles for asset owners and asset managers” & “Principles for service providers”

Proposed new code

A Principle would be applicable when the applicant’s stewardship activity that represent more than 10% of their AUM

Principles	Who should apply them
1. Integration of stewardship and investment 2. Market-wide and systemic risks 6. Monitoring service providers	Applied by all asset owner and asset manager signatories.
3. Engagement 4. Exercising rights and responsibilities 5. Selection and oversight of external managers	Signatories report on the Principles that are relevant to their stewardship activities. Where a Principle refers to stewardship activity that represents 10% or less of a signatory’s assets under management, then it is not an expectation that they respond to that Principle.

Dedicated Principles for different entities

Proxy advisors and investment consultants

2020 Code

"Principles for service providers"

Proposed new code

1 Principle for proxy advisors

2 Principles for investment consultants

Updated Code for service providers
Policy and Context Disclosure
A. The organisation and its services
B. Governance and resources
C. Stewardship policies and review
D. Conflicts of interest
Principles (Activities and Outcomes Report)
1. Communication with clients
2. Proxy advisors – quality and accuracy of recommendations
3. Investment consultants – integration of stewardship and advice
4. Investment consultants – market-wide and systemic risks

Cross Referencing

Use of cross-referencing to publicly available external information

2020 Code

No external cross-referencing, only some signatories cross-reference content within the report.

Interim measures

Allow existing signatories to cross-reference from their most recent (successful) stewardship reports.

Proposed new Code

Enable signatories to cross-reference from external disclosures as well, these disclosures need to be publicly available.

However, enabling the use of cross-referencing in this way would mean that stewardship reports are no longer a comprehensive 'one-stop-shop' that provide an overarching view of a signatory's stewardship.

Consultation Timeline : **Public consultation period: 11 November 2024 – 19 February 2025**

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Narrative reporting in 2025

Will Chalk

Narrative reporting - overview

QCA Code aside, no major changes in narrative reporting requirements for 2025

With thanks to our friends at Practical Law and LexisNexis

Sustainability reporting	See prior session materials
Diversity reporting	In the regulatory spotlight - see slides 61 and 62
Corporate reporting: general	The FRC's top ten issues and advice on how to avoid correspondence - see slides 64 and 65
Corporate reporting: governance	Preparing for the 2024 UK Corporate Governance Code and transition year for QCA Corporate Governance Code – see slides 66 to 73
Private company reporting	Under greater scrutiny - see slides 74 and 75
Payment practices and future developments	See slides 76 and 77

Narrative reporting – diversity

Key considerations

*FCA supervisory approach – see **Primary Market Bulletin 44** and for changes to UKLR 6 Annex table, see **Primary Market Bulletin 49***

Legal and regulatory considerations

NOTE: UKLR 6 Annex – change to ONS descriptions means ‘including Arab’ deleted from ‘Other ethnic group’ in standardised table

The FRC and FCA routinely review disclosures. The FCA may require announcement via RIS of missing UKLR disclosures

Proxy voting agency voting guidelines increasingly stringent – see AGM section

*"We continue to view **climate-related financial disclosures and diversity disclosures** as important features of our regime to support market integrity, as investors’ interest in these areas increases.“*

Source: FCA Policy Statement PS 24/6

Improving the Ethnic Diversity of UK Business. Parker Review update report (Mar 24)

Reminder of new Parker Review targets

- Target: **FTSE 350 companies** to report a target for **ethnic diversity of their senior management team**, to be achieved by end 2027
- Target: **Largest 50 private companies** to meet Parker Review targets by end 2027 (including self-set target for senior management)

March 24 update report – summary of data as at 12/23

- **Prior ‘one by end of 2021 / 2024 / 2027’ target**: met by 96% of FTSE 100; 70% of FTSE 250; and 44% of top 50 private companies
- Average targets set for **ethnic minority representation in senior management** by end 2027 so far is 17% for FTSE 100; 15.5% for FTSE 250

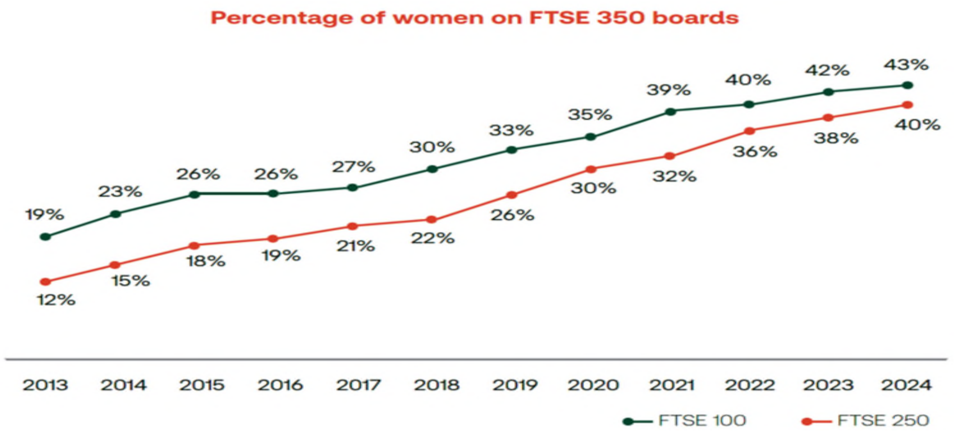
FTSE Women Leaders Review (per latest report (Feb 24) and website)

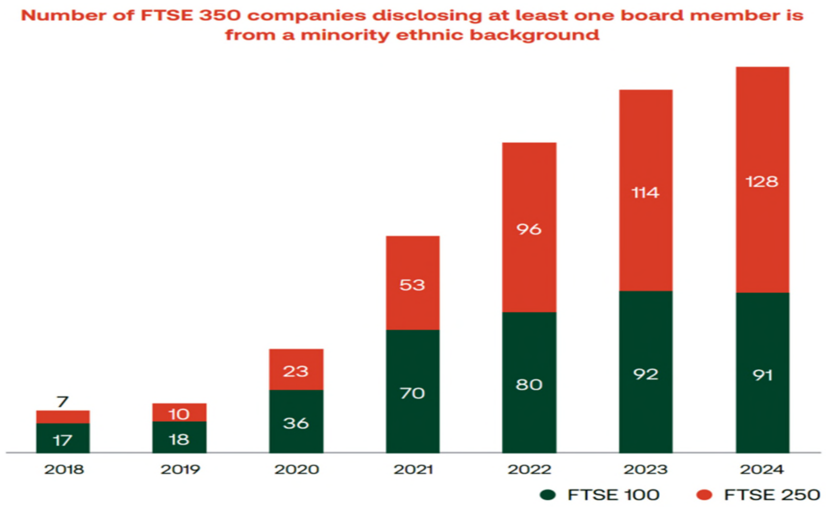
- FTSE Women Leaders Review – Achieving General Balance in FTSE 350, February 2024 (NB targets now in UKLR)
- **FTSE 350**: 42.1% Women on Boards; 34.5% in Senior Leadership; 47% SIDs but work to do on other roles
- **Largest 50 private companies**: 31% Women on Boards; 36% in Senior Leadership

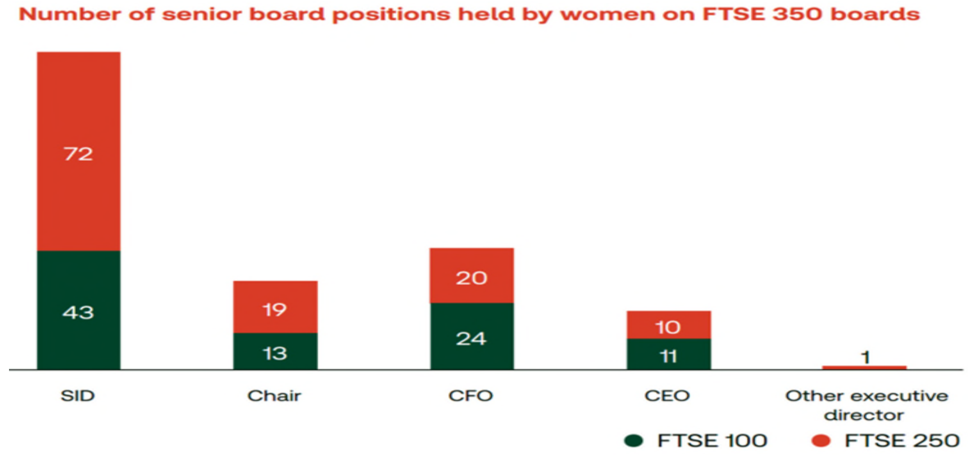
Narrative reporting - diversity

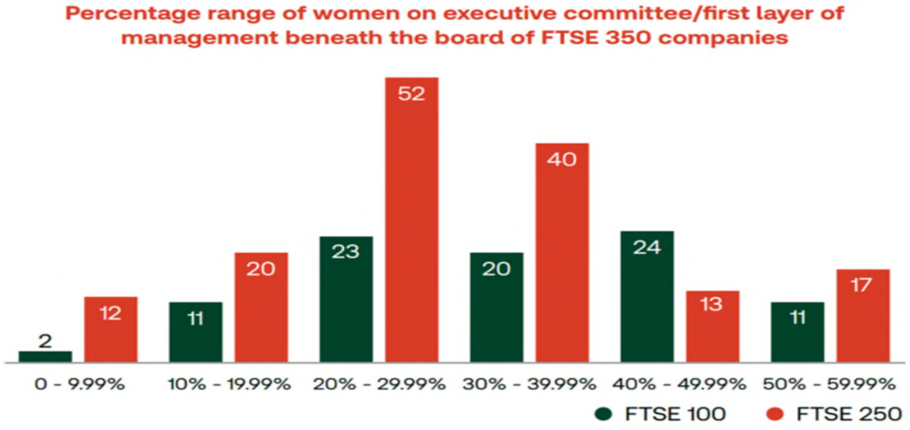
Statistics behind the disclosures

Note that the Practical Law 2024 review also contains a review of diversity in the AIM UK 50









(Source: Practical Law Annual Reporting and AGMs 2024 – What's Market practice?)

Narrative reporting – key recent FRC publications

FRC review focus in 2024/25

- FRC Annual Review of Corporate Reporting 23/24 (Sept 24)
- FRC Annual Review of Corporate Governance Reporting 23/24 (Nov 24)
- FRC Thematic Review: Reporting by the largest private companies (Jan 24)
- FRC review of reporting against the Wates Principles (Aug 24)

FRC focus

- **Priority monitoring 2023/24**
  - Travel, hospitality and leisure
  - Retail and personal goods
  - Construction and materials
  - Industrial transportation
- **Priority monitoring in 2024/25**
  - Construction and materials
  - Food producers
  - Gas, water and multi-utilities
  - Industrial metals and mining
  - Retail

Source: FRC Annual Review of Corporate Reporting

Narrative reporting - FRC Annual Review of Corporate Reporting 2023/24

Principal focus: Reporting amidst geopolitical tensions and low growth

Enforcement highlights

Reviews – **243** annual reports (2023: 263)

Substantive letters written to companies – **47%** (2023: 43%)

Required reference to correspondence in annual report – **26** (2023: 25)

Restatements – 26 (22/23 – 25). Fewer in FTSE 350, but more elsewhere

What	Key FRC disclosure expectations	Top 10 areas (in order) where questions raised by FRC
Findings from FRC review work in 2023/24 monitoring cycle and expectations for 2024/25 Annual Reports Monitoring work still weighted towards FTSE 350 but more AIM companies and large private companies being reviewed	**Pre issuance checks:** Ensure sufficiently robust review process to identify common technical compliance issues – i.e. review against the top 10 areas (see next box) . The FRC feel this would avoid many of their questions needing to be asked Ensuring that clear, company specific accounting policies are included for key matters such as revenue recognition **Risks and uncertainties:** Ensure clear and consistent disclosures about uncertainty and risk are given which are sufficient for users to understand the positions taken in financial statements. The FRC note that they frequently ask for enhanced disclosure on this issue **Narrative reporting:** Ensure the strategic report includes a fair, balanced and comprehensive review of the company's development, position, performance and future prospects. Take care over TCFD disclosures	1. Impairment of assets 2. Cash flow statements 3. Financial instruments 4. Revenue recognition 5. Presentation of financial statements 6. Strategic reports and CA06 matters (see next slide) 7. Judgments and estimates 8. Income taxes 9. Fair value measurement 10. TCFD and climate-related narrative reporting NB. Provisions and contingencies fell out of the Top Ten for the first time in 5 years

Take a step back and consider whether the Annual Report as a whole:

- Tells a **consistent and coherent story** throughout the narrative reporting and the financial statements
- Is **clear, concise and understandable**
- Includes **all and only material and relevant information** necessary for users' understanding
- Good quality reporting does **not** necessarily require a greater volume of disclosure

Narrative reporting - FRC Annual Review of Corporate Reporting 23/24

Strategic Reports and 2006 Act matters – areas of FRC challenge

Fair, balanced and comprehensive

The FRC noted Strategic Reports which did not discuss:

- Material balance sheet and cash flow items, and significant changes in balances
- Significant fair value loss on disposal of an asset
- Litigation claims disclosed in other company publications

The FRC also challenged:

- Prominence given to a company's alternative performance measures where the FRC were unable to locate any IFRS measures in the Strategic Report
- Strategic Reports discussing only some parts of the business; giving prominence to green initiatives with little discussion of the rest of the business; no information about key performance indicators.

Ensuring 'fair, balanced and comprehensive' reporting – the FRC expect unbiased discussion of positive and negative aspects of performance, and a clear articulation of the effects of economic uncertainty on the business; and reports to address significant movements in the financial statements.

Distributable profits and other Companies Act 2006 issues

1. Lawfulness of distributions

The FRC queried the lawfulness of dividends:

- not supported by the company's last audited accounts, and where the required interim accounts had not been filed at Companies House
- when a public company's net assets were lower than the total of its share capital and undistributable reserves

2. Other issues

The FRC also asked questions relating to:

- Companies which were part of a large group having taken advantage of the small company audit exemption
- Significant differences between the share premium balances disclosed in the consolidated and parent company financial statements

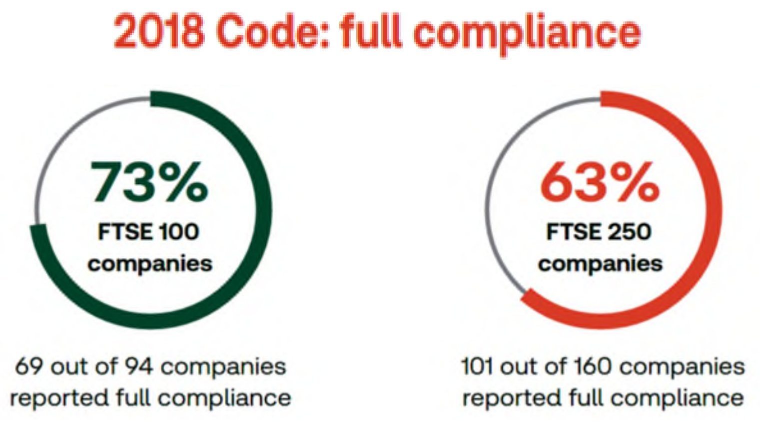
Narrative reporting - FRC Review of Corporate Governance Reporting 23/24

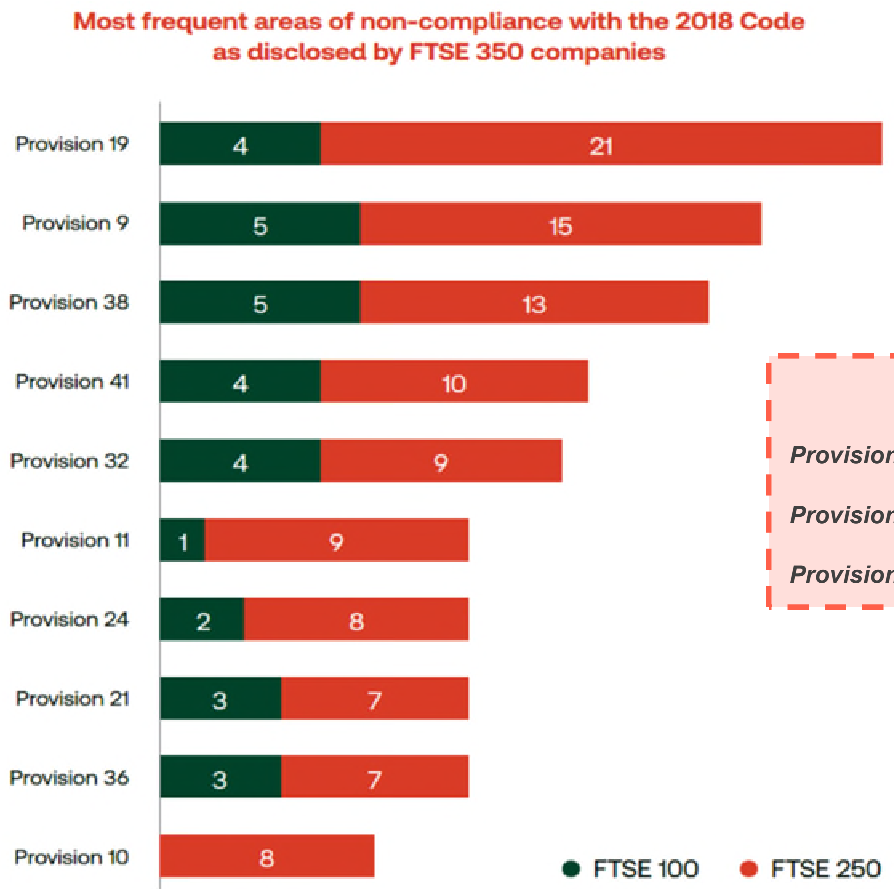
FRC reporting expectations and areas for improvement

See **AGC Update, Issue 59** coming to your inbox soon!

Narrative reporting – The 2018 UK Corporate Governance Code

Compliance statistics with 2018 Code Provisions





KEY

Provision 19 - Chair tenure

Provision 9 – Chair independence

Provision 39 – Exec pension contribution

(Source: Practical Law Annual Reporting and AGMs 2024 – What's Market practice?)

The 2024 UK Corporate Governance Code

Financial periods beginning on or after 1 Jan 25 (with one exception)

AIC Code also revised
Same implementation timetable as for 2024 UK Corporate Governance Code. See [AGC Update - Issue 56]

Overview

Significantly scaled back changes relative to May 23 consultation

Structure of Code remains the same: apply the Principles and 'comply or explain' re adherence to the Provisions

Changes will apply to financial periods beginning on or after **1 Jan 25**, with exception of Provision 29 which will apply **one year later**

Revised **guidance** published on 29 Jan 24

Principal changes

Section 1 – Board leadership and company purpose

Board to report on outcome of decisions within the framework of the company's strategy and objectives, and how culture embedded

Section 3 – Composition, succession and evaluation

Concept of diversity in the context of board appointments and succession planning amended with the revised Code embracing diversity, inclusion and equality of opportunity in the widest sense

Section 4 – Audit, risk and internal controls

Enhanced reporting on effectiveness of controls framework for financial periods beginning on or after 1 Jan 26 but note the board's obligation to establish and maintain an effective risk management and internal control framework (Principle O) starts a year earlier (see next slide)

Minimum Standard on Audit Committees and the External Audit integrated

Section 5 – Remuneration

Directors' remuneration arrangements should include malus and clawback provisions. Companies should set out more detail on these provisions in the annual report, including an explanation of any use of them

Disclosures to consider in 2025?

- **Outcomes of governance initiatives**
- **How culture is embedded**
- **Impact of 2024 Code on D&I policies and procedures**
- **Audit Committee Minimum Standard expectations**
- **Board's maintenance of risk and internal control framework**
- **Work undertaken and route-map towards Provision 29 'compliance'**
- **Changes to exec rem in light of changes to Section 5 – i.e. malus and clawback**
- **Other: Governance of AI / cyber security – see voting guidelines**

The 2024 UK Corporate Governance Code

Provision 29 - financial periods beginning on or after 1 Jan 26

Audit Committees and the External Audit: Minimum Standard, FRC, May 23

Risk management in and internal controls: Actions and possible disclosures

The 2024 Code is more prescriptive as to how the board should report on its **monitoring and review** of risk management and internal controls. In the annual report, the board will need to:

• declare **how** the monitoring and review was carried out by the board

• declare the **effectiveness** of the material controls as the date of the balance sheet

• describe any **material controls** which have **not** operated effectively as at that date, and detail the **remedial action** taken (or to be taken) and any action taken in response to issues previously reported

The 2024 Code also expressly refers to **reporting** controls, alongside **financial, operation and compliance controls**, when setting out the material controls to be included in the board's monitoring and review processes

Actions to consider and consider disclosing in short term:

- Establish governance / team (reporting to Audit Committee?), incl any new framework needed
- Design / enhance risk management framework such that the board can effectively oversee principal risks and obtain ongoing comfort over the internal control environment
- For each principal risk: determine and define related material controls, effectiveness criteria / thresholds, reporting methodology to enable board scrutiny, level of assurance
- **Consider reporting in 2025 on actions taken to date? Consider starting to shape disclosure to fit future reporting expectations**
- Timetable board approvals / frequency of monitoring / testing of material controls working back from Provision 29 reporting obligation

The 2024 UK Corporate Governance Code

Revised guidance to accompany the new Code

Watch out for revised ***FRC Guidance on Going Concern Basis of Accounting and Related Reporting*** *in early 2025. For the exposure draft click here*

Overview: The FRC has published updated and "targeted and digitally accessible" **Corporate Governance Code Guidance** to support the 2024 Code (replacing the previous Code-related guidance) when in force

FRC intention: "A single, condensed, digitally accessible and user-friendly resource.“

How to work out what has changed: Click on "See all updates" at the top of the page and it opens an "Updates Log" at the bottom of the page

New guidance included in relation to:

- Successful management of board committees
- Outcomes-based reporting
- Board performance reviews
- Audit committees and the Minimum Standard
- Material controls and the declaration of effectiveness as regards material controls

Annual Reports, ESEF and the National Storage Mechanism

Primary Market Bulletin 49

FCA CP 24/17: Enhancing the National Storage Mechanism consultation (closed September 2024; final rules possibly by end 2024)

FCA Reminders

A reminder of the basics:

- Annual Report must be filed with the FCA by uploading it to the National Storage Mechanism
- Annual Report must be made public at the latest four months after the end of each financial year (DTR 4.1.3R) and submitted in Extensible Hypertext Markup Language (XHTML) format (DTR 4.1.15R)
- NSM may reject an Annual Report if it is not prepared properly (DTR 4.1.15R to DTR 4.1.22R). **Remember**: if an Annual Report is rejected (per DTR 6.2.11G (4)), an issuer is expected to resubmit within the prescribed timeline (DTR 4.1.3R)

FCA review findings:

- FCA requirements for Annual Report publication and dissemination are set out in DTR 6.3. **The FCA has noticed instances of**:
  - Publication of Annual Reports but **no** NSM filing
  - Announcements of the publication of Annual Reports which do **not** contain a statement to indicate availability on the NSM as required under DTRs
  - Announcements that do **not** contain a statement indicating the website on which the Annual Report is available as required under DTRs
  - Incorrectly tagged reports and some filed in the NSM but not in XHTML format
- Including links in an announcement to other hosting sites – e.g. the LSE's website - to provide access to a pdf of an Annual Report without also uploading it to the NSM does **not** meet the filing requirement in the DTRs

The 2023 QCA Code (by way of reminder)

For financial periods beginning on or after 1 Apr 24

AIM Rule 26 – required website disclosure
'…details of a recognised corporate governance code that the board…has decided to apply, how the AIM company complies with that code, and where it departs from its chosen corporate governance code an explanation of the reasons for doing so'

Overview

- Ten Principles with 'application' expectations and related disclosures
- New remuneration-focused **Principle 9**
- **New Principle 7** is a combination of 2018 Principles 9 and 6
- Works on same '**apply and explain**' basis
- Annual report and website disclosures expanded
- Chair's statement requirements enhanced
- **'Transition' period of 12 months**
- QCA will continue **not** to review compliance

The 2023 Principles

1. Establish a **purpose**, strategy and business model which promote long-term value for shareholders
2. Promote a corporate culture that is based on ethical values and behaviours
3. Seek to understand and meet shareholder needs and expectations
4. Take into account wider stakeholder interests, including social **and environmental** responsibilities, and their implications for long-term success
5. Embed effective risk management, **internal controls and assurance activities**, considering both opportunities and threats, throughout the organisation
6. **Establish and** maintain the board as a well-functioning, balanced team led by the chair
7. **Maintain appropriate governance structures and ensure that individually and collectively the directors have the necessary up-to-date experience, skills and capabilities**
8. Evaluate board performance based on clear and relevant objectives, seeking continuous improvement
9. **Establish a remuneration policy which is supportive of long-term value creation and the company's purpose, strategy and culture**
10. Communicate how the company is governed and is performing by maintaining a dialogue with shareholders and other **key** stakeholders

** Words in **bold and underlined** are NEW in the 2023 QCA Code*

The 2023 QCA Code – disclosures to focus on in 2025

For financial periods beginning on or after 1 Apr 24

See AGC Update, Issue 44 for an in-depth review of the changes to the QCA Code

Chair's statement	Impact of governance on purpose; outcomes of governance developments and evolution of governance as company grows
Purpose	Explanation of company **purpose** and its link to, and impact on, strategy (**Principle 1)**
Culture	Description of **culture**; how tone from the top supports it and board assesses, monitors and acts on cultural indicators (**Principle 2**)
ESG	Quantitative and qualitative reporting **on ESG** to meet investor expectations (**Principle 3**)
Stakeholder engagement	Description of relevant ESG issues and associated KPIs. How the board receives and assimilates stakeholder information, particularly in relation to the workforce (**Principle 4**)
Risk management	How risks, incl. emerging risks, are **identified and managed** and the board assures the **effectiveness of internal controls**. The governance of climate-related risks and opportunities should be explained, as should how the audit committee monitors and considers auditor independence (**Principle 5**)
Board effectiveness	Director **contribution** to the Board **and independence** considering factors which may impair that conclusion. Expectations as to **time commitment** and restrictions on additional roles. Extent of shareholder consultation on NED performance-related remuneration. Impact of **diversity** on board effectiveness and succession planning (**Principle 6**)
Governance	**Director development** initiatives and structural governance developments such as the establishment of new committees (**Principle 7**)
Board performance	Plans for external board performance **reviews** and detail on **succession** plans and processes (**Principle 8**)
Remuneration	An entirely new **Principle 9** merits significant attention in context of a company's directors' remuneration report, particularly link of policy on remuneration to purpose, business model, strategy and culture

Narrative reporting by private companies

Reviews and guidance on reporting

WATES PRINCIPLES - FRC second assessment of reporting quality (Aug 24)	FRC THEMATIC REVIEW - Reporting by the UK's largest private companies, (Jan 24)

WATES PRINCIPLES - FRC second assessment of reporting quality (Aug 24)

- Most widely adopted corporate governance code among large private companies. Adopted by 30% (547 out of 1,815) of in-scope companies
- Companies continue to **struggle to give meaningful disclosures** in key areas
    - defining company purpose
    - connecting purpose, strategy, culture and values and describing those issues
    - explaining how stakeholder engagement impacts board decision-making
- Over-reliance on **boilerplate**, rather than company-specific disclosure
- **High levels of similarity** between corporate governance statements of different companies, and also between reports by the same company in different years
- **Suggestions for improvement** include:
    - provide context-relevant, time-specific disclosures
    - more outcomes-based reporting linking governance activities to company actions
    - clearer rationales for approach to / philosophy on issues like risk and remuneration
    - better signposting across the annual report

FRC THEMATIC REVIEW - Reporting by the UK's largest private companies, (Jan 24)

"Overall, the quality of reporting was mixed, particularly in terms of how clearly companies explained material matters that were complex or judgemental."

Some key observations

- **To improve Strategic Reports** – focus on elements of development, performance and position that are key to understanding the company and explain them in a clear, concise and understandable way that is consistent with disclosure in the financial statements. Good quality reporting does not necessarily require greater volume
- **To enable a fuller understanding of a business** disclosure should explain the nature of the company's operations and how it fits into the wider group structure
- **Need for critical review of Annual Report before finalisation** – many issues identified by FRC, could have been avoided if a sufficiently critical review of the report had been performed prior to finalisation. This should look at whether the report as a whole is clear, concise and understandable, omits immaterial information and whether additional information is necessary to understand particular transactions, events or circumstances. It should also include a review for internal consistency and detailed presentation and disclosure matters.

Narrative reporting by companies in private equity

Walker Guidelines – PERG consultation response awaited

PERG Consultation, published Jul 24 (now closed), to refresh the Walker Guidelines

Matters being considered:

- **Scope** – updating thresholds/tests for inclusion in the Walker 'population' and also the definition of portfolio company (to more accurately reflect the largest UK PE-backed companies)
- **Governance** - which aspects of the UK Corporate Governance Code, if any, may be suitable for PE firms and their portfolio companies to apply voluntarily, and do so in a proportionate manner. PERG's **Good Practice Guide** aimed at those applying the Guidelines to be updated
- **Disclosure** – requirements to be updated to reflect good practice in FTSE 250, incl. board composition, ownership structures, risk management, internal controls and ESG.

Revised Guidelines to be published in **Jan 2025**

Changes to **PE firm website disclosure** requirements will apply in 2025 and will be reviewed as part of PERG's 2025 review

For **portfolio companies**, changes to impact those with accounting periods ending after 30 Apr 2025 and be reviewed as part of the 2026 review

Payment practices reporting and other measures

What's in force and what's to come

***Modern Slavery Act**: Watch for government response to House of Lord's MSA 2015 Committee report on impact and effectiveness of current legislation – likely Dec 24*

Revised and extended regulations	Principal new reporting metrics
The Reporting on Payment Practices and Performance (Amendment) Regulations 2024 (2024 No 444)	**Value metric**, so the value of invoices that have not been paid under agreed terms, alongside existing volume reporting, to improve transparency
In force from Apr 24	**Disputed invoices metric –** proportion of disputed invoices which subsequently result in payments being made outside agreed payment terms
Extends and revises 2017 Regulations to 2031	Clearer instructions when third party supply chain finance provider is involved
Revised Guidance also published (Sept 24) – click here	

Further draft regulations

- **The Reporting on Payment Practices and Performance (Amendment) (No 2) Regulations 2024**
- Laid before Parliament but still in draft
- Expected to be effective 1 Apr 25
- Introduces new requirements to publish certain information about payment practices and policies with respect to retention clauses in any **construction contract** they have with their suppliers

Further proposals include

- Requiring large businesses to disclose in their **Annual Report**s information regarding supplier payments (in this Parliament)
- Launch of a new **Fair Payment Code** to be overseen by the Small Business Commissioner - a voluntary code of best practice for companies committed to fair and fast payments. To replace existing Prompt Payment Code
- Possible enhanced role for Audit Committees in relation to payment practices

Source: Ministerial Statement - Jonathan Reynolds, DBT (Oct 24)

On the horizon…

Other developments to keep an eye on……

Non-financial reporting review and reforms to company law	Ethnicity and disability pay gap reporting
By the end of the year, the government intends to lay legislation to uplift the **monetary size thresholds** for micro-entities, small and medium-sized companies, remove redundant reporting requirements and apply "technical fixes to the UK's audit framework." The government will also launch a further consultation in 2025 to simplify and modernise non-financial reporting (potentially to remove obligation for many companies to produce a Strategic Report by raising employee threshold from 250 to 500) and examine the potential for updating shareholder communication in line with technology and clarify the law regarding virtual AGMs The push for the dematerialisation of securities also continues with final report of Digitalisation Taskforce imminent *Sources: DBT announcement (25 Oct 24) and Ministerial Statement (14 Oct 24)*	**Draft Equality (Race and Disability) Bill** The Bill will tackle inequality for ethnic minority and disabled people by enshrining in law the full right to equal pay for ethnic minorities and disabled people and introducing mandatory ethnicity and disability pay reporting for larger employers (those with 250+ employees) *Source: King's Speech (Jul 24)*

Ashurst

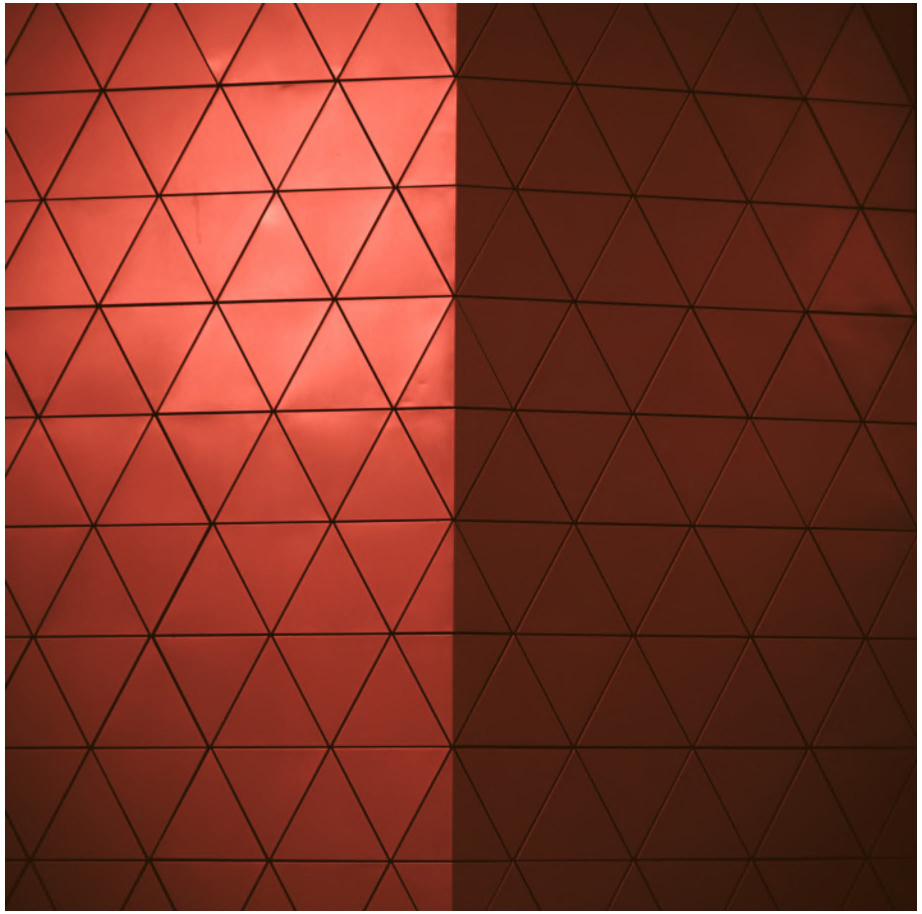
AGM retrospective and preparation for 2025

Will Chalk and John Papadakis

AGM retrospective and preparation for 2025

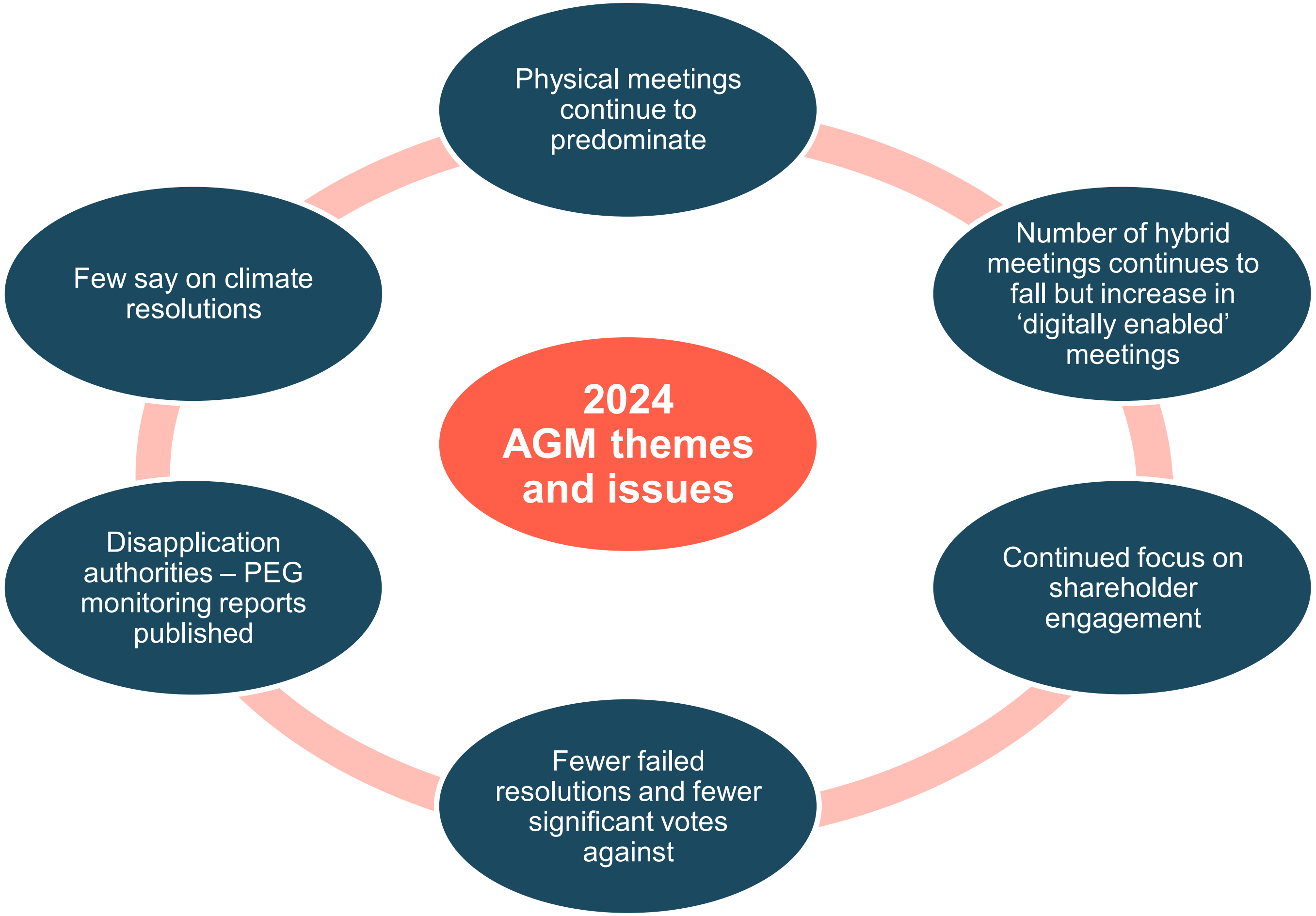
What we will cover

- A review of AGMs in 2024
- AGMs in 2025 – Issues to consider
- AGMs in 2025 – Voting guidelines
- AGMs in 2025 - Remuneration



AGMs in 2024

Key themes and issues

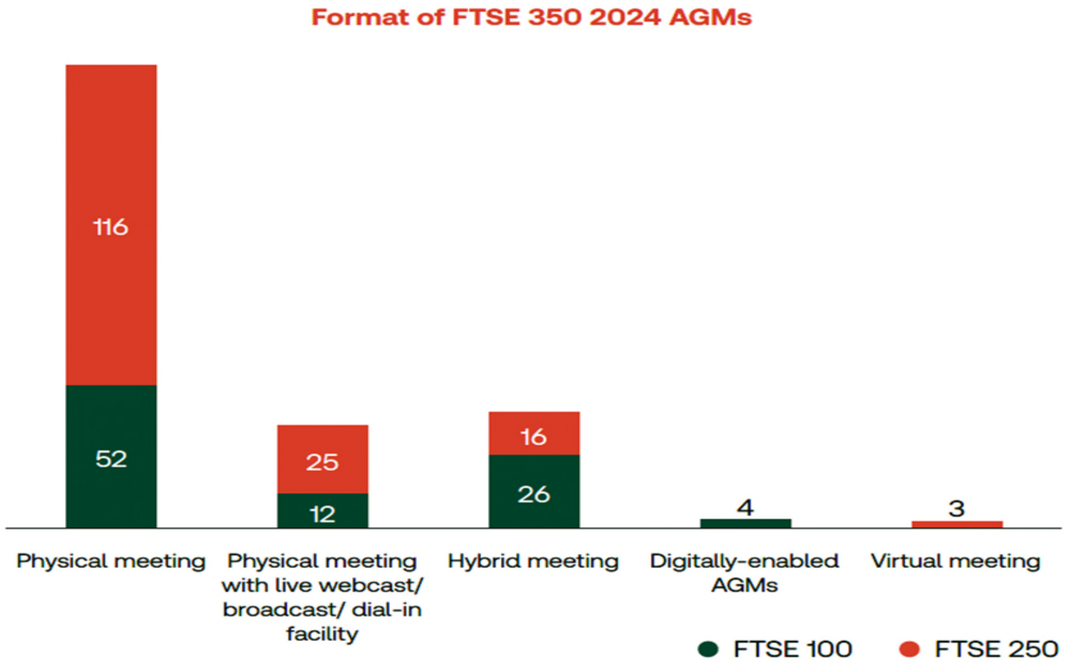


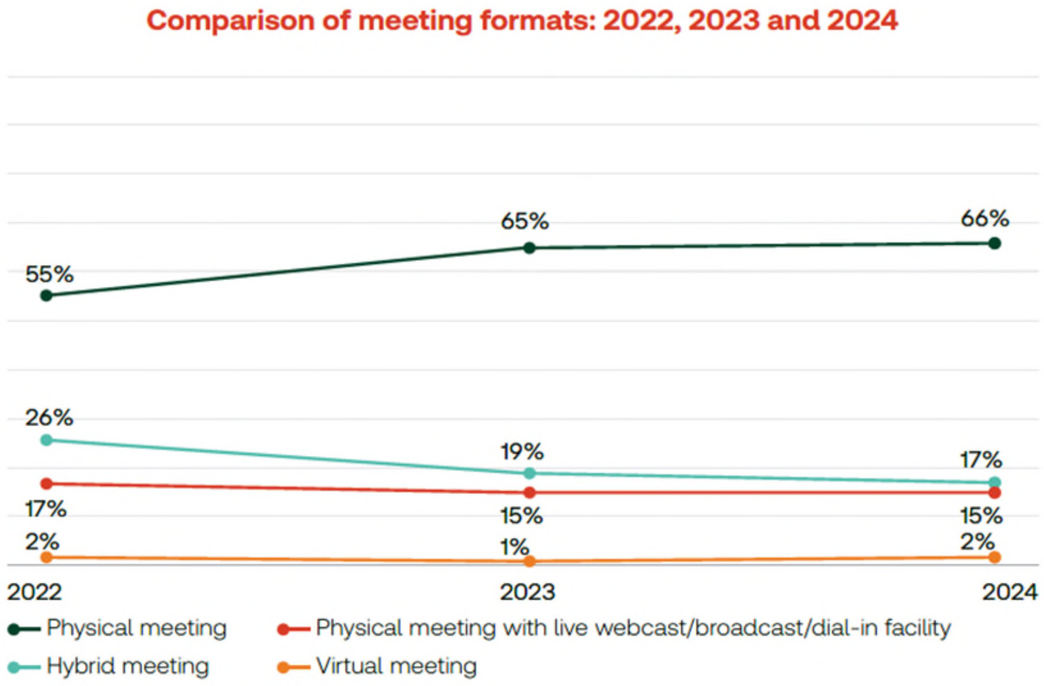
AGMs in 2024

Format of meeting

'Digitally enabled' AGMs

- M&S Group plc
- Haleon plc
- AstraZeneca plc
- BAE Systems plc



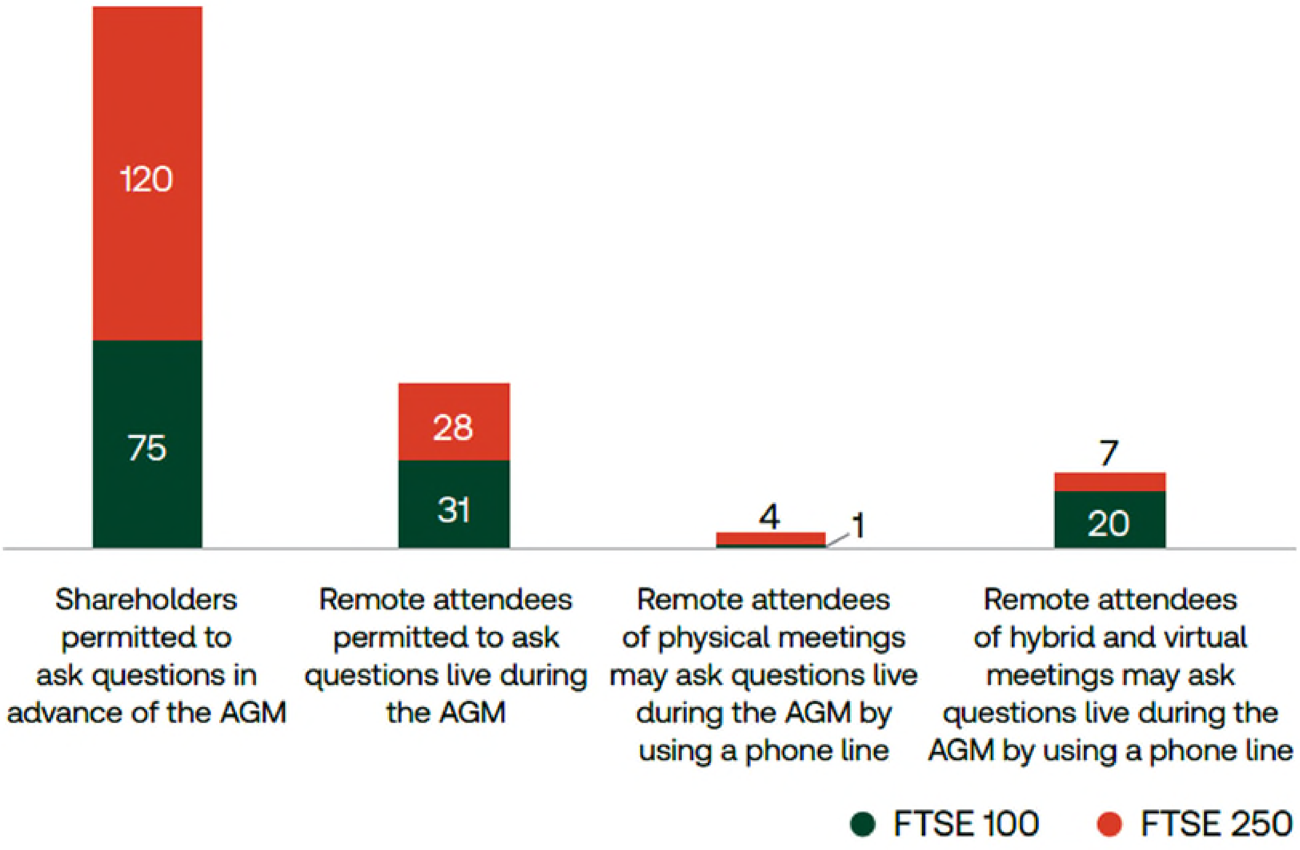


(Source: *Practical Law Annual Reporting and AGMs 2024 – What's Market practice?)*

AGMs in 2024

Questions at AGMs

Number of FTSE 350 companies offering Q&A options at their 2024 AGM



195 companies allowed questions in advance of meeting

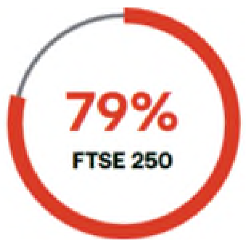
- 133 of 195 companies included explanation in AGM Notice on **how** responses would be provided
- Most of the 133 specified **when** answers would be given
- 61 of the 133 confirmed that responses would be provided **before** the proxy deadline

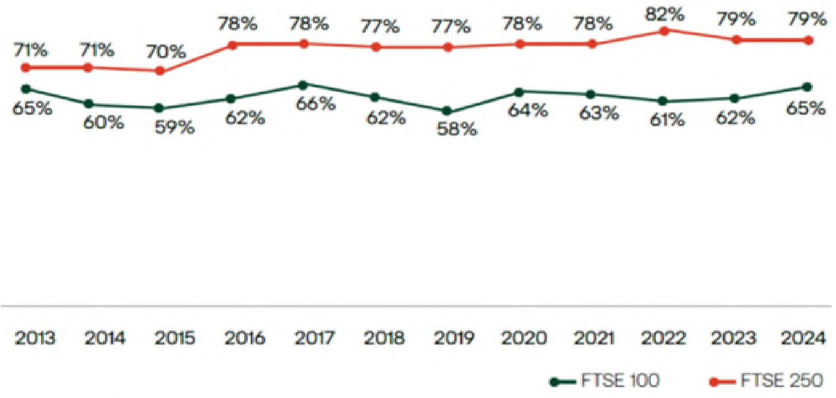
(Source: Practical Law Annual Reporting and AGMs 2024 – What's Market practice?)

AGMs in 2024

Share capital resolutions

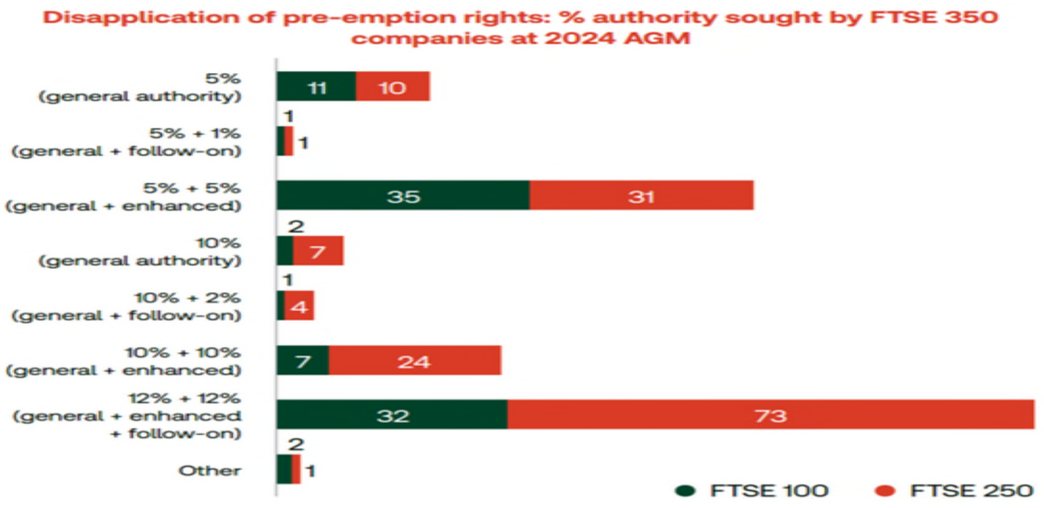
Authority to allot





REMINDER: Investment Association Share Capital Management Guidelines 2023 *– additional one third authority able to extend to* ***all forms of fully pre-emptive offers****, not just rights issues – see* *[AGC Update, Issue 33]*

Disapplication of pre-emption rights



Resolution	Number of failed resolutions	Number of resolutions receiving a substantial vote against
General authority to disapply pre-emption rights	2	1
Enhanced authority to disapply pre-emption rights	1	2

AIM UK 50

% sought	5%	6.5%	10%	12%	20%	24%	Other
	2	1	8	1	10	21	1

(*Source: Practical Law Annual Reporting and AGMs 2024 – What's Market practice?*)

Pre-Emption Group Annual Monitoring Report 23/24 (Nov 24)

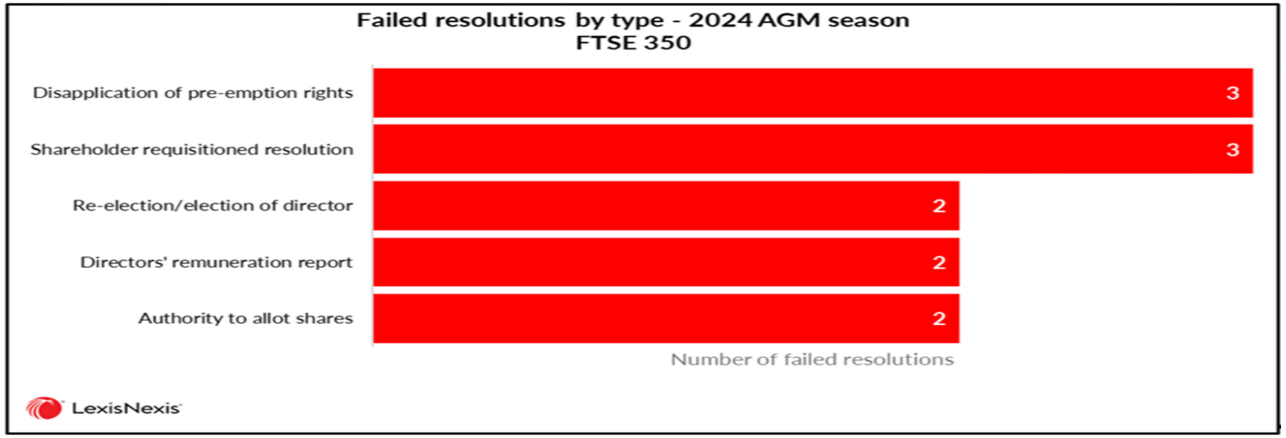
Report on PEG Statement of Principles implementation: Aug 23 – Jul 24

- **Headline statistics**: Of the FTSE 350 companies with an AGM during the study period:
  - **Growing confidence**: 67% sought an **enhanced disapplication authority** – i.e. above 2015 SoP permitted levels (22/23: 55%)
  - **SCI resolution**: 64% sought authority for a **specified capital investment**
  - **Mistakes**: 26% used the **six month** look back for prior capital investments (22/23: 42%) with most now using the 12 month period permitted by the 2022 SoP
  - **Mistakes**: 13% continue to refer to the 'outdated' **7.5% rolling cap** on use of general disapplication authorities (22/23: 25.3%)
  - **Dissent**: 4.7% average vote **against** disapplication resolutions
  - **Dissent**: Only two of 334 resolutions were **defeated**, six received a **'significant' votes against**
  - **Post transaction reports**: Now available on FRC website

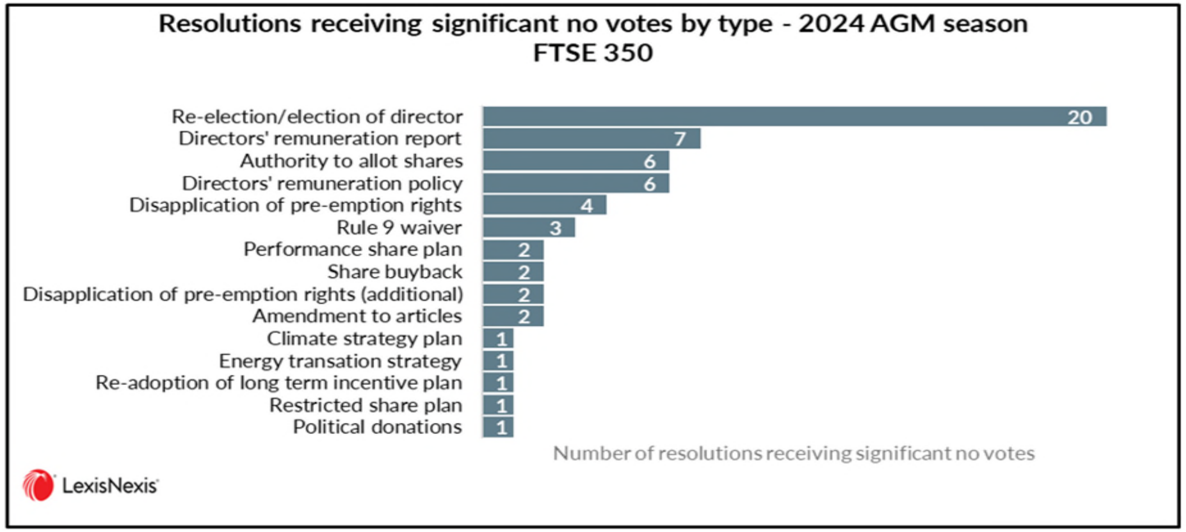
- **Other headlines**:
  - **PEG encourages all companies to adopt the 2022 SoP** rather than the 2015 SoP and engage with shareholders, particularly if resolution outside of SoP - **12** companies sought authorities at odds with 2022 SoP – e.g. **nine** sought 20% for general corporate purposes (all nine approved)
  - PEG continues to be aware of **investors voting against all resolutions** seeking enhanced disapplication authority due to fundamental disagreement with new Principles. Investors also encouraged to contact PEG in cases of '**misuse**' – e.g. cashbox structures used to raise more funds than authority granted for

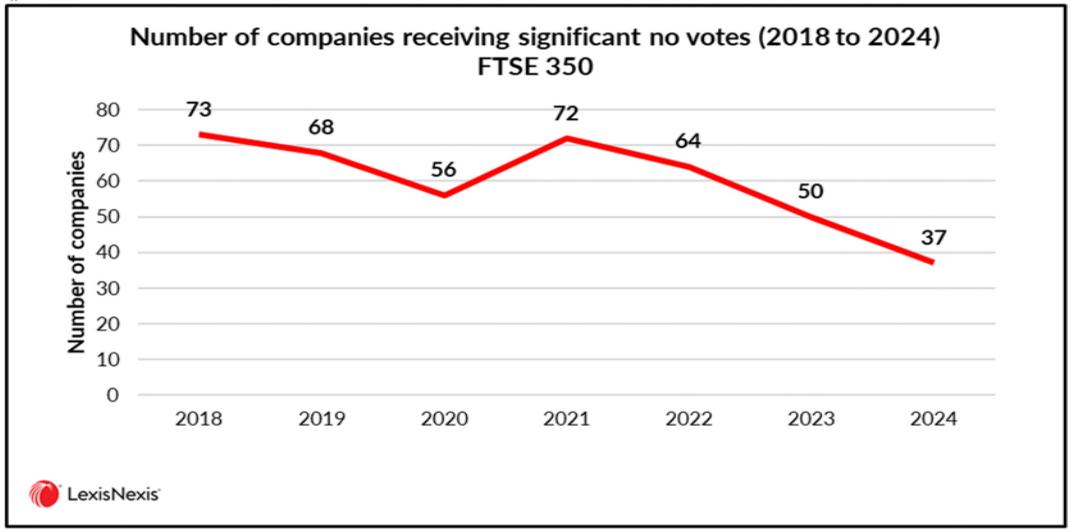
AGMs in 2024

Dissent - Lowest level of dissent for 6 years



(Source: Lexis Nexis Market Standards Trends Report, Nov 2024)





AGMs in 2024

The AIM Top 50

Format

- 46 companies (of 50) held **physical** meetings
- 6 augmented physical meeting with webcast / broadcast / dial-in

Allotment authorities

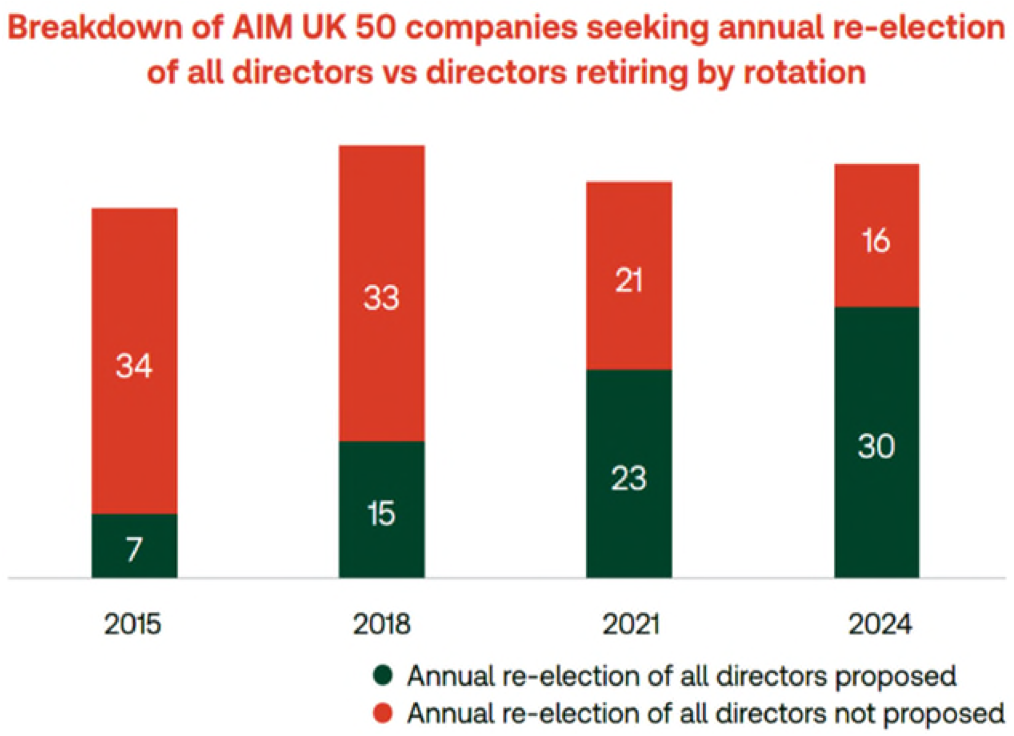
- 96% sought a general allotment authority
- 50% sought authority over additional one-third of issue share capital

Pre-emption disapplication

- 95% sought a disapplication authority
- 71% sought an enhanced authority with nearly all following 2022 PEG SoP
- 47% sought authority to be able to make 'follow-on' offers

Remuneration reports and policies

- Mixed practice to date

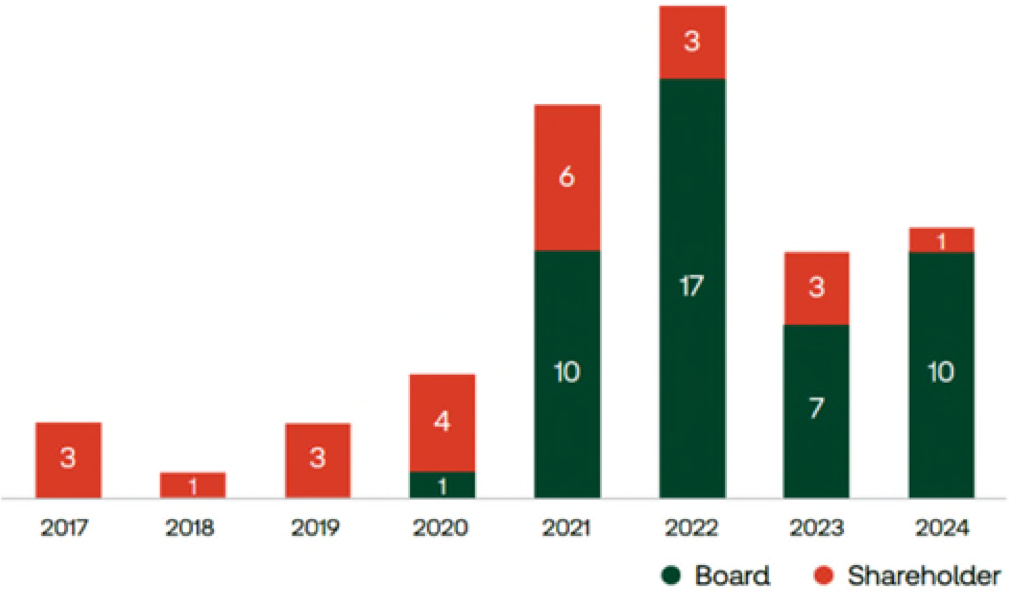


(Source: Practical Law Annual Reporting and AGMs 2024 – What's Market practice?)

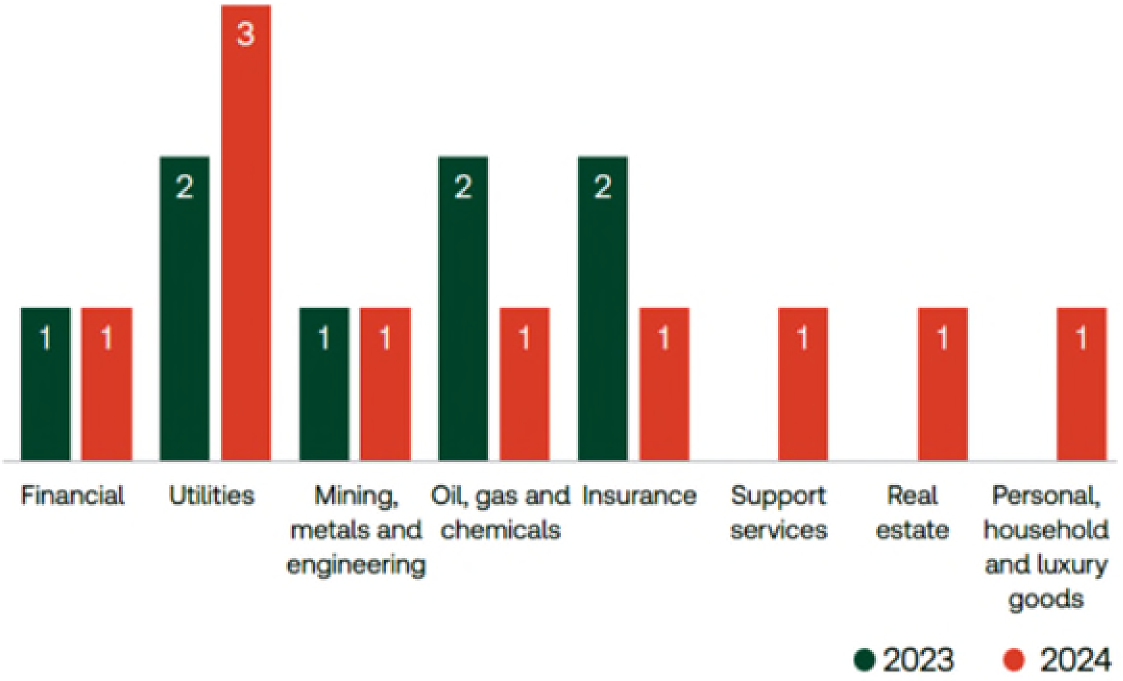
AGMs in 2024

Climate-related resolutions

Number of climate-related resolutions at AGMs: board proposed vs shareholder-requisitioned



Number of companies tabling climate-related resolutions at AGMs by industry sector: 2023 vs 2024



(Source: Practical Law Annual Reporting and AGMs 2024 – What's Market practice?)

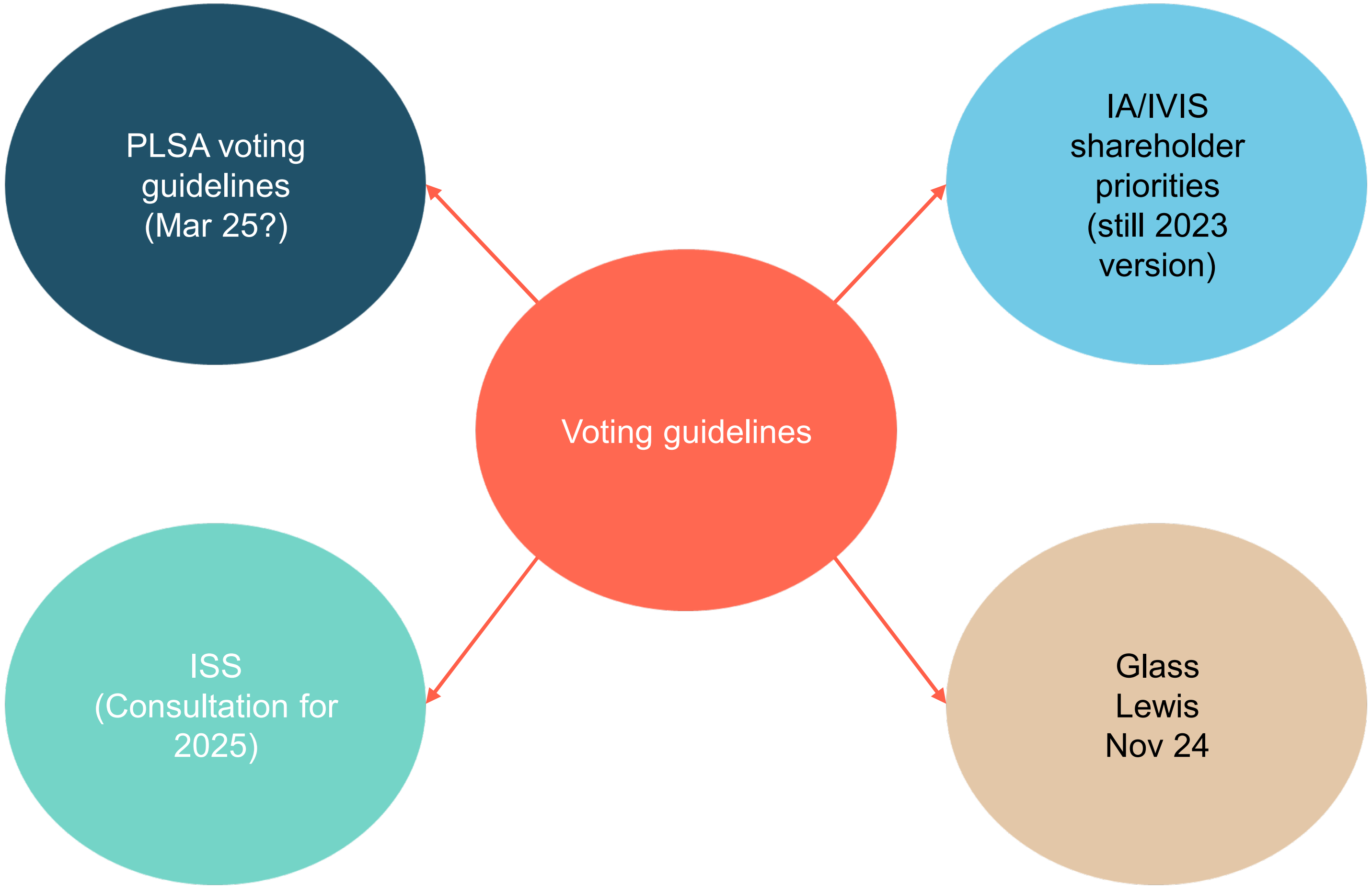
AGMs in 2025 and beyond

Issues to consider

Business to be moved	**Issues to consider** • Allotment authorities and ‘second one-third’: fully pre-emptive offers as opposed to just rights issues? • Disapplication of pre-emption: taking the full extent of PEG 2022 Statement of Principles? • Climate transition plans in FTSE100: consider LAPFF call for vote. • UKLRs and 30%+ controlling shareholders: dual-vote for independent directors still required.
QCA Code 2023 considerations	**QCA Code 2023** • Annual election/re-election of all directors (Principle 6). • Voted on remuneration reports and policy (Principle 9).
Paying Dividends	**Dividend procedures -** for the LSE’s Dividend Procedures Timetable for 2025 – click here • LSE notes some failures to comply – deviations must be notified to the LSE’s Corporate Actions team / dividend details must be in the body of an announcement not elsewhere.
Dormant Assets Scheme	**HM Government/Reclaim Fund Ltd** • Suggested draft changes to articles and text for AGM circular to facilitate participation in the dormant assets scheme.
Digitalisation of shareholdings	**Digitalisation Taskforce -** driving forward the modernisation of the UK’s shareholding framework • **Timing.** July 2023 Interim Report. Final Report still awaited. • **Practical upshot?** Remains to be seen but may drive changes to articles of association re share certificates / dividend payments.

AGMs in 2025

Voting guidelines - overview



AGMs in 2025

Key changes to voting guidelines

Voting guidelines – key changes

Glass Lewis 2025 Benchmark Policy Guidelines

- **Director tenure:** Rational for extending tenure of board chair beyond nine years now to be looked at on a case-by-case basis (a more flexible approach)
- **Gender diversity:** GL will generally recommend against re-election of the chair of the NomCom at any main market board that has failed to appoint at least two gender diverse directors and has failed to provide a clear and compelling rationale for the lack of board-level gender diversity. Benchmark policy expects 33% FTSE 350 gender diversity
- **Ethnic diversity:** GL will generally recommend against re-election of the chair of the NC at any FTSE 250 board (already so for the FTSE 100) failing to appoint at least one director from an ethnic minority background without a clear and compelling rationale
- **Board oversight of AI:** New section on AI including that boards: be cognisant of, and take steps to mitigate exposure to, material risks from use/development of AI; adopt strong internal frameworks; and make clear disclosure. If board oversight, response or disclosure is insufficient, GL may recommend voting against re-election of accountable directors, or other matters up for shareholder vote.
- **Other changes** include multi-class structures and special purpose acquisition vehicles (see next slide for remuneration) and clarifications on virtual meetings and proxy voting results. Remuneration dealt with later in this section

PLSA 2024 Stewardship and Voting Guidelines

- **Social factors:** A new section on social factors (including workforce and wellbeing practices) recommending that investors start engaging with this topic and promoting best practice for companies to follow
- **Cybersecurity**: Investors should encourage companies to disclose the governance and oversight structures in place to identify and manage cybersecurity risks and to provide timely reporting of any breaches and response measures. Potential vote against annual report if disclosure is poor
- **AI:** Investors should ensure that companies are aligned with evolving industry good practice. 'Egregious conduct' by a director in relation to the deployment or development of AI may lead to voting against that individual
- **Climate change and sustainability**: The importance of biodiversity loss stressed as is the need to treat issue with the same prominence as climate change
- **Executive pay:** Companies to exercise restraint over executive pay awards, and investors to evaluate all aspects of a company's remuneration policy to ensure that it is closely aligned with investors' interests and is in line with wider workforce policies. Investors should consider voting against remuneration policy not reflecting PLSA's standards

AGMs in 2025

Key changes to voting guidelines

Voting guidelines – key changes

IA / IVIS Shareholder Priorities for 2023 (NB Still 2023 – IA considering 24)

- **Responding to climate change: Amber top** all commercial companies failing to disclose consistently with all four pillars of TCFD (as in 2022). However, more detail now given of how reporting needs to improve
- **Accounting for climate change:** IVIS will continue to monitor for statement that directors have considered the relevance of climate and transition risks linked with the transition to net-zero when preparing/signing off accounts
- **Audit quality:** IVIS will monitor how companies provide targeted disclosures on how the Audit Committee has assessed audit quality; how the auditor has shown professional scepticism; and how the auditor has challenged management's assumptions where necessary
- **Gender diversity: Red top** for FTSE 350 company with less than 35% women on board/30% women on ExCos + direct reports. **Red top** for FTSE small caps with less than 25% women on the board and on ExCos
- **Ethnic diversity: Red top** for FTSE 100 companies which do not have one ethnic minority director. **Amber top** FTSE 250 companies that do not disclose ethnic diversity of their board or a credible action plan to achieve Parker Review targets by 2024
- **Stakeholder engagement:** IVIS will monitor and highlight areas of annual reports which reflect engagement with stakeholders on the cost-of-living crisis

ISS consultation for guideline changes

- **Diversity – a clarification:** Changes to clarify that listed companies are required under the Listing Rules to report against specific gender and ethnic diversity targets on a 'comply or explain' basis (rather than a requirement to meet them)
- **Remuneration:** Policy to align with updated IA Principles of Remuneration
- **Remuneration – dilution limits:** Adjustments to share dilution limits, acknowledging the updated IA Principles, and providing transparency on expectations regarding good market practice
- **Remuneration policy applicable to smaller companies:** Adjusted to reflect the revised 2023 QCA Corporate Governance Code, particularly the recommendation that remuneration reports and remuneration policies be put to advisory shareholder votes
- **Remuneration at financial institutions:** ISS proposes deleting this section given the removal of the variable-to-fixed remuneration cap for dual-regulated firms from 31 October 2023 and given the limited number of UK companies still subject to the 'banker's bonus cap'

Prior consultation earlier in year focused on: virtual meetings, auditor rotation, Scope 3 GHG emissions targets and workforce diversity

The Investment Association's Principles of Remuneration 2024

Overview and key points

Overview

- **Less prescriptive** – guidance not rules
- **Three principles** – remuneration policies should:
  - promote long-term value creation through alignment of pay with corporate strategy
  - support individual and corporate performance, sustainable long-term financial health of business and sound risk management
  - seek to deliver remuneration levels clearly linked to company performance

Takeaways for AGMs

- **Remuneration committees**: "engage proactively and constructively with shareholders”
- **Levels of remuneration:** "appropriate for the company's circumstances“
- **Long-term incentives:** guidance completely rewritten; more generalised; acknowledgement of different schemes, including hybrid schemes
- **Dilution**: 10% overall dilution limit; 5% for discretionary schemes removed *
- **Grant windows:** 42-day window post-announcement of results only for executive directors
- **Life of schemes**: 10-year limit dropped for all employee share schemes
- **Change of control**: time pro-rating of early vesting of awards on change of control removed

** **Proposed ISS benchmark policy changes for 2025** on remuneration to align with IA Principles but difference in emphasis on dilution limits: for executive (discretionary) schemes, dilution should not exceed 5% in any rolling 10-year period, but if exceeded, companies should explain why this is considered appropriate*

Key remuneration issues - 2025

Glass Lewis voting guidelines 2025 and QCA Code 2023

Glass Lewis 2025 Benchmark Policy Guideline – key remuneration changes

- **Hybrid incentive plans**. New section. Companies should provide further disclosure including:
  - rationale for choosing hybrid model over single structure
  - reduction in maximum opportunity compared with previous LTIP (with explanation of methodology used to determine discount rate)
  - total vesting and post vesting holding period of at least five years
- **Dilution limits**. Share dilution should be limited to 10% in any 10-year period for companies with established businesses (5% over a ten-year period in relation to executive/discretionary schemes dropped)
- **Pension contributions**. Will generally recommend against remuneration proposal where executive pension contribution rates exceed those applying to majority of workforce. Clarified expectation that no element of variable pay to be pensionable

QCA Corporate Governance Code 2023 – key remuneration points

- **Rem policy**. Remuneration policies should be put to an advisory vote
- **Rem policy**. Best practice for larger companies is to put the remuneration policy to a binding shareholder vote
- **Changes to incentive plans**. New or significant amendments to existing share schemes should be put to a shareholder vote
- **Application**. Code applies to financial periods beginning on or after 1 Apr 24, although first year considered a ‘transition’ year

Corporate governance round-up

Will Chalk and Ruby Hamid

Corporate governance round-up

What we will cover

- The Economic Crime and Corporate Transparency Act 2023
- New UK Listing Rules
- Audit and Corporate Governance reforms
- Guidance of note

For another time…..

Employment Rights Bill *and* ***EHRC updated guidance*** *on sexual harassment. See [AGC Update – Issue 57]*

Directors' duties post BHS / IoD Code of Conduct

UK MAR / EU Listing Act

AI / Cyber security

New Public Offerings regime

[Companies House Outline Transition Plan]

Economic Crime and Corporate Transparency Act 2023

What's in force?

Received Royal Assent on 26 October 2023	Key reform effective from 26 December 2023	Key reforms effective from 4 March 2024	Key reform effective from 2 May 2024	Key reforms not yet in force
	The identification doctrine: new senior manager test expands scope of corporate criminal liability	Registered office and email addresses Significant new powers for the Registrar of Companies	Companies House fees regime	Identity verification – directors and those filing information **New failure to prevent fraud offence** Record keeping, statutory registers and new duties Limited Partnership reforms

*The government will also bring into force Companies Act 2006 provisions banning the use of **corporate directors** (with limited exceptions)*

'Lengthy' transition period before software only filings of accounts

Other accounts reforms (timing tbc): removing option for small / micro-businesses to file abridged accounts; enhanced assurance from directors seeking audit exemption; limiting number of times accounting reference periods can be shortened

ECCTA 23: Failure to prevent fraud

Overview of the offence

- New corporate offence modelled on Bribery Act and Criminal Finances Act
- Part of Economic Crime and Corporate Transparency Act 2023; in force 1 Sept 25
- Strict liability corporate offence (knowledge/awareness of management not required)
- Applies to large sized companies and their subsidiaries
- Non-UK companies in scope if conduct has UK nexus
- Broad definition of ‘fraud’: includes tax evasion and false accounting
- Defence to strict liability; prevention procedures in place that are “reasonable in all the circumstances”

KEY IMPACTS

- Raises the stakes for corporate compliance
- Affects same group of third parties as Bribery Act
- Time to check effectiveness of existing procedures – including effective investigation capability and resource.
- Company not guilty of the offence if it was the victim of the fraud
- Government guidance published on 6 Nov 24
- Enhancements to existing control framework

ECCTA 23: Failure to prevent fraud

Key takeaways on reasonable prevention procedures

Top level commitment

- Clear governance in respect of fraud prevention framework
- Active articulation of benefits of rejecting or consequences of committing fraud
- Reasonable and proportionate budget allocated for the leadership, staffing and implementation of the fraud prevention plan

Risk assessment

- "Fraud Triangle": (i) opportunity, (ii) motive and (iii) rationalisation
- Risk assessments are dynamic, documented and kept under regular review -- should respond to external triggers

Prevention procedures

- Existing processes will not automatically qualify as reasonable procedures
- Testing of fraud controls can be integrated into BAU processes

Due Diligence

- Apply a fraud lens to due diligence processes using technology, third-party risk management tools, and screening
- Firms should assess fraud prevention measures during M&A transactions and as part of post-deal integration

Communication (including training)

- Policies and procedures are communicated, embedded and understood
- Training and maintaining training key
- Whistleblowing is a key part of fraud detection and escalation

Monitoring and review

- Monitoring and reviewing fraud detection and prevention procedures – improvements where necessary
- Use of investigations / whistleblowing data to recalibrate systems and controls

ECCTA 23: Failure to prevent fraud

Actions for companies in the run up to implementation

Nov 24	Dec 24	Jan 25	Feb 25	Mar 25	Apr 25	May 25	Jun 25	Jul 25	Aug 25	Sept 25

Review and mobilisation

- First 30-days: review guidance and map to preparatory work already completed
- Assess coverage of external fraud risk in existing financial crime risk registers, taxonomies, and processes
- Establish governance structure and engage stakeholders globally

Risk assessment and compliance uplift

- Cross-function group of nominated officers to identify risk typologies using the Fraud Triangle
- Refresh assessment of associated persons
- Conduct comprehensive risk assessment focusing on external fraud
- Enhance procedures and controls where inherent risk not adequately mitigated
- Ensure decisions are properly documented and approved by senior management

Training, operationalise, and assurance

- Roll-out training and communication strategy
- Update internal investigation protocols
- Test enhanced controls ahead of go-live date

1 SEPTEMBER: OFFENCE IN FORCE

New UK Listing Rules – effective 29 July 24

Governance impacts for those in the new ESCC category

AGM TIP: If you have a controlling shareholder, don't forget that you still need a dual vote re the election/re-election of independent NEDs

ESCC = Equity Shares (Commercial Companies) category

No changes to the DTRs	No significant change to UKLR	Update public documents for changes	Provide two key persons' contact details to FCA	Controlling shareholder(s)	Other actions	Secondary Capital Raising Review/SCRR
DTRs still apply and are unchanged	No significant changes to UKLR as regards AGMs, corporate governance or reporting in the ARA, other than see controlling shareholder box	Update listing rule references in new and template RIS announcements and any in Annual Report / Notice of AGM **NB Main relevant continuing obligations now in Chapter/UKLR 6 (not Chapter 9)**	Before 29 January 2025, provide FCA with contact details of at least two executive directors and keep them up-to-date (UKLR 1.3.5R)	**Still in UKLR.** For an ESCC company with a 30%+ shareholder, UKLR still requires a vote of a majority of independent shareholders as well as of all shareholders (UKLR 6.2.5 – 6.2.9) **New in UKLR**. 6.2.10R – if a 30%+ shareholder or its associate, proposes/procures a shareholder resolution that a director considers is intended to circumvent the proper application of the UKLRs, the circular accompanying the NoM must set out a statement by the board of the director's opinion on the relevant resolution (NB other changes – e.g no requirement for a relationship agreement)	Update board and relevant policy documents for other changes such as • Significant transactions • Related party transactions • Controlling shareholders, if relevant	Reform of regime for public offers of securities (ie secondary offerings) – ongoing *The "Financing Growth" paper [has] committed the government to implementing the outstanding recommendations from the 'SCRR'."* *Source; Jonathan Reynolds Ministerial Statement, 14/10/24*

Governance reforms on the horizon

Key developments

Draft Audit and Corporate Governance Bill

- King's Speech (Jul 24) reignites governance reform agenda
- To strengthen audit and corporate governance
- To uphold standards and independent scrutiny of companies' accounts, as well as accountability for company directors
- Improve transparency from large companies
- Extend Public Interest Entity (PIE) status to the 'largest private companies' to ensure that their audits are high quality and provide early warning of financial problems

New regulator - ARGA

- FRC to be replaced by the **Audit, Reporting and Governance Authority**
- King's Speech refers to regime to oversee and build resilience in the audit market and protect against conflicts of interest at audit firms

Director accountability

- ARGA to be empowered to enforce directors' duties as regards financial reporting
- *'It is important that all directors in the UK's most significant companies face consequences if they neglect their duties in respect of financial reporting….'*

Reporting regulations for 750/750 PIEs

- Onerous annual reporting requirements for public interest entities with 750 or more employees and £750m or more turnover
- Would have applied to private and public companies
- **Legislation withdrawn 16 October 2023**
- **In line for a possible comeback?**

Governance reforms on the horizon

Other issues to keep an eye on……

Green Paper on Industrial Strategy

Consultation: Invest 2035: the UK's modern industrial strategy (now closed)

Response to the Green Paper will be included in the final industrial strategy and growth-driving sector plans, to be published alongside government Spending Review in Spring 2025

Relevant areas to be covered include various areas of regulation

Corporate re-domiciliation

The Independent Expert Panel on Corporate Re-domiciliation has published its Final Report on the introduction of a two-way re-domiciliation regime (Oct 24)

Suggests government sholud allow bodies corporate registered outside the UK to become a UK company and also to allow UK companies to re-domicile outside the UK

The government intends to consult on proposed regime design in due course

See AGC Update – Issue 57

Non-financial reporting review and reforms to company law

By the end of the year, the government intends to lay legislation to uplift the monetary size thresholds for micro-entities, small and medium-sized companies, remove redundant reporting requirements and apply "technical fixes to the UK's audit framework"

The government will also launch a further consultation in 2025 to simplify and modernise non-financial reporting (potentially to remove obligation for many companies to produce a strategic report by raising employee threshold from 250 to 500) and examine the potential for updating shareholder communication in line with technology and clarify the law regarding virtual AGMs

The push for the dematerialisation of securities also continues with final report of Digitalisation Taskforce imminent

Sources: DBT announcement (25 Oct) and Ministerial Statement (14 Oct)

FRC Stewardship Code consultation – click here

Interim changes have now morphed into consultation phase

Significant proposed changes include amending the definition of 'stewardship' and streamlining the Principles. New principle focused on proxy agencies – revised Code likely 2025

New **Investor and Issuer Forum** launched

Reform of section 172

Private Members Bill: Company Directors (Duties) Bill expects directors to balance duties to promote the success of the company with duties in respect of the environment and employees

…AND **Better Business Act** engaging with new government……

Bedtime reading....

Key publications from the FRC, the FRC Lab, and others in 2024

FRC Thematic and Annual Reviews	FRC Consultations	Other FRC/FRC LAB	Miscellaneous
Annual Review of Corporate Governance Reporting 2023/24 (Nov 24) **Annual Review** of Corporate Reporting 2023/24 (Sept 24) **Thematic Review** into IFRS 17 Insurance Contracts – Disclosure in the first year of application (Sept 24) **Thematic Review** into offsetting in the financial statements (Sept 24) **Thematic Review** into reporting by the UK's largest private companies (Jan 24)	UK Stewardship Code Consultation (Oct 24, closes 19/2/25) Discussion Paper: Opportunities for the future of digital reporting (Aug 24, closed 1/11/24) Consultation with Exposure Draft on Guidance on the **Going Concern Basis of Accounting and Related Reporting**, including Solvency and Liquidity Risk (Aug 24, closed 28/10/24, expectation of final guidance publication early 2025)	Emerging findings from sustainability assurance market study (Oct 24) In conversation: Looking ahead to the first reporting cycle of the 2024 Code (Sept 24) Large private companies continue to favour Wates Principles (Aug 24) FRC latest Annual Enforcement Review (Jul 24) Pre-Emption Group reports widespread adoption of new principles (Mar 24) Pre-Emption Group Annual Monitoring Report (Nov 24) 2024 UK Corporate Governance Code and revised guidance (Jan 24) Structured digital reporting – 2023 insights (Dec 23)	Investment Association revised Principles of Remuneration 2024 (Oct 24) Association of Investment Companies updated Code of Governance for investment companies (Aug 24) Filing of Structured Annual Reports page (last updated Feb 24) FCA Primay Market Bulletin 49 on various topics incl. UKLRs in relation to LTIPs; compliance (or not) by GDR issuers; and Annual Reports in structured digital format (May 24) FCA CP 24/17 - Consultation on enhancing the National Storage Mechanism (Aug 24, now closed)

Thank you

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