

Boardroom Briefing – March 2025

A brief monthly update on corporate governance and related areas

High Court considers first judicial review of UK foreign screening regime

The National Security and Investment Act 2021 empowers the government to intervene in certain acquisitions and investments to protect national security. The High Court has recently [considered](#) the first judicial review of a Cabinet Office decision to prohibit an acquisition under this legislation. The target company, Upp Corporation Ltd, was a fibre broadband company, and the buyer was an entity whose ultimate beneficial owners (UBOs) at the time of the acquisition included Russian nationals. In its “call-in” notice to Upp, the Investment Security Unit set out its concerns, including that the UBOs would have access to consumer data which could be used to undermine national security. The Secretary of State made a final prohibition and divestment order, requiring the buyer to sell its shareholding in Upp, which the buyer alleged resulted in it incurring significant loss. The Court found the divestment order was proportionate and that “the degree of democratic accountability was high” in the decision-making process. The continuing influence of the sanctioned UBOs was a key factor in the Court’s judgement. A second judicial review of a Cabinet Office decision to prohibit an acquisition under the UK’s foreign screening regime has also recently been launched, with the case scheduled to be heard by the High Court in April 2025. FTDI Holding (whose UBOs are based in China) was ordered to sell its 80.2% stake in Future Technology Devices International in 2024; in February 2025 FTDI did not succeed in its attempt to suspend the divestment order.

Risk Coalition publishes guidance for board and risk committees

The Risk Coalition, a network of corporates, not-for-profit bodies, and membership organisations, has [published](#) principles-based guidance for boards and audit and risk committees, endorsed by the Institute of Internal Auditors and the Institute of Chartered Accountants of England and Wales. Sir James Wates CBE provides a foreword in which he highlights the analogy of racing cars “that can excel when there is confidence in the brakes which control their speed and safety”, noting that sound risk management systems give organisations the confidence to accelerate and brake as required. Centred around eight principles, the guidance references a “Three Lines” model of integrated assurance, covering the roles of operations, risk advisory and compliance, and the internal audit function. The guidance also refers to the revised UK Corporate Governance Code’s emphasis on internal controls and risk management - Provision 29 will require boards, for financial years beginning on or after 1 January 2026, to declare how they have monitored the effectiveness of their internal controls.

FTSE Women Leaders Review published

Heralding a “seismic shift” in the gender balance in British boardrooms, the FTSE Women Leaders Review for 2024 has been [published](#). The Ministerial foreword notes that in 2011, 9.5% of FTSE 350 board positions were held by women, compared to 43% currently. The Review found that FTSE 350 companies reported a year-on-year increase, with women holding 43% of Board roles and 35% of leadership positions. The 50 largest private companies are keeping pace with the FTSE 100 companies, according to the Review, where women’s representation in leadership roles is 37%, within reach of the 40% target for Main Market listed companies. However, there is still work to do to increase the proportion of women on boards beyond 31%, noted the Review.

FCA consults further on the UK public offers regime

We reported in the August 2024 edition on proposals to reform the UK public offers regime, which are intended to simplify capital raising on the UK public markets. The Financial Conduct Authority (FCA) has recently published two further consultation papers, [one](#) proposing further changes to the public offers regime and the UK Listing Rules, including removing the listing

application process for further issuances of a class of securities that is already listed, and the [other](#) setting out proposals for the operation of public offer platforms, whereby companies could make public offers of shares to investors outside public markets when raising more than £5 million. Responses are requested to both papers by 14 March 2025. The FCA expects to make final rules in Summer 2025.

Accelerated settlement of trades from 11 October 2027

The process for settling trades in the UK is to be shortened from the current T+2 days to T+1 day. A T+1 standard means that, in a typical securities trade, the buyer would receive the securities they have purchased, and the seller would receive payment, the business day after the trade is agreed. This is in line with European developments and other international markets, including the US. The government has [accepted](#) the [recommendations](#) of the Accelerated Settlement Taskforce Technical Group and says it will legislate accordingly. Noting that the transition will require significant investment in back-office operations, the move to T+1 will have effect on 11 October 2027, to give firms time to prepare. The FCA’s webpage on T+1 settlement is available [here](#).

Shareholder rule overturned in landmark privilege case

A recent High Court [case](#) has found that companies do not generally have to disclose privileged communications to their shareholders, a ruling which could have a significant impact on the growing area of UK securities litigation. The case involved investor claims, including claims made under sections 90 and 90A of the Financial Services and Markets Act 2000, in respect of allegedly misleading information published on the IPO of a listed mining company and in certain other of its publications. The question arose as to whether the company was entitled to assert privilege against the investor claimants. The Court found that it was. Permission to appeal direct to the Supreme Court has been [refused](#) but, while companies may welcome this decision, it may not be the final determination on the issue, given the possibility of an appeal to the Court of Appeal and other ongoing litigation. Read more [here](#).

Payment-reporting practices regulations made

As we reported in the May 2024 edition, large UK companies and LLPs are required under existing rules to report half-yearly on their payment practices, policies, and performance. For financial years beginning on or after 1 April 2025, those companies and LLPs in-scope will be [required](#) to publish information about retention clauses in qualifying construction contracts.

In brief

- The House of Lords Financial Services Regulation Committee [report](#) on the FCA’s proposals to publicise enforcement investigations, titled “Naming and shaming: how not to regulate”, recommends that the FCA should not proceed with the proposals if it has not found an acceptable balance between consumer protection and the potential risks to firms, individuals and to market stability.
- The Independent Anti-Slavery Commissioner published its three-year strategic [plan](#) with recommendations, including that the government introduce mandatory human rights due diligence legislation in the UK.

In-house legal seminar 2025

Our in-house legal seminar for GCs, Heads of Legal, Company Secretaries and in-house lawyers will take place on 25 March 2025; please register [here](#).

If you would like further information on any of the topics covered, please get in touch with your usual Pinsent Masons contact or [Kirsty Divers](#).

This note reports on topical legal developments which, while current at the time of writing, may evolve over time. This note does not constitute legal advice; specific legal advice should be taken before acting on any of the topics covered.

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