JTC

CHANGES TO UK CORPORATE GOVERNANCE RULES

Effective governance is not only an issue of public interest in respect of listed companies, but also for private companies and, in particular, family and larger businesses.

Successful investment requires well informed decision making at all levels. At its core, good corporate governance creates an alignment of interests and an environment for the mechanisms, attitudes and behaviours that allow for successful and sustainable businesses.

The 2016 Green Paper on Corporate Governance Reform shone a light on the disparity between the expectations placed on listed companies and those of non-listed businesses in relation to corporate governance. In order to address this imbalance, the regulatory framework is being amended by the adoption of secondary legislation (Companies (Miscellaneous Reporting) Regulations 2018) published on 11 June 2018 (the "**Regulations**"). The Regulations make key amendments to the Companies Act, 2006, which are intended to promote a high standard of governance, transparency and stakeholder engagement in all companies. The majority of Regulations will be effective from 1 January 2019.

The Regulations introduce the following two important reforms:

CORPORATE GOVERNANCE

All significant companies (public and private), being companies that exceed either two of the following thresholds:

- turnover in excess of £200 million and a balance sheet total in excess of £2 billion; and/or
- number of employees in excess of 2000 people;

will need to report on their corporate governance arrangements, including whether or not they follow a formal code. Unquoted companies will also now need to make this disclosure on their website.

An industry group led by James Wates has published a draft voluntary set of corporate governance principles for large private companies, the Wates Corporate Governance Principles for Large Private Companies (the "**Wates Principles**"), which may choose to adopt these principles on an "apply and explain" basis. Large private companies that do not follow any formal corporate governance code will be expected to report on these principles. The final version is expected in December 2018 to apply to financial years beginning on or after 1 January 2019.

Both private equity backed companies and family owned companies could find themselves having to comply with the Wates Principles. Private equity backed companies are likely to adopt the Walker Guidelines for Disclosure and Transparency in Private Equity (the "**Walker Guidelines**"). Whilst family owned companies often look to the Institute for Family Business (IFB) for corporate governance guidance as one of the challenges that they face is to balance two facets of typical family owned companies: family and corporate governance.

STAKEHOLDER VOICE

In addition to the enhanced corporate governance requirements, all large private and public companies, will need to include in their strategic report a statement explaining how the directors have had regard to the matters in section 172(1)(a) to (f) of the Companies Act 2006 when performing their duty to promote the success of the Company and explain how the directors have had regard to wider stakeholder interests. This explanation will be incorporated in their existing strategic reports with a statement in their directors' report on fostering business relationships with suppliers, customers and others. Companies with an average of over 250 employees employed during a financial year will also need to include in their directors' report a statement of the company's engagement with employees, information on the ratios between CEO and average staff pay and a summary of how this engagement has affected the company's principal decisions.

Unquoted companies are required to publish these statements on their website.

WHAT ACTIONS TO TAKE?

Large private companies should review any formal codes adopted by them and assess their compliance against the Wates Principles. For large private subsidiaries, it will be important to consider their compliance with the Wates Principles with reference to the listed parent company's compliance with the UK Corporate Governance Code 2018.

Investment Companies may wish to adopt the Walker Guidelines, but this should also be reviewed against the principles set out in the Code to ensure that good practice is properly implemented.

Adherence to good standards of compliance and corporate governance standards is an aspiration that any organisation should strive towards.

If you would like to explore how these changes will affect your business, and how you can prepare for this, please contact Susan Fadil to set up a consultation.

SUSAN FADIL

Senior Director

+44 203 893 1005

+44 7949 650 795

susan.fadil@jtcgroup.com