

Client Alert

Coronavirus Outbreak: Implications for the UK Listed Company Reporting Timetable

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In response to the unprecedented challenges for companies in the face of the ongoing coronavirus pandemic, the UK's Financial Conduct Authority ("FCA") on 21 March 2020 published a statement requesting companies admitted to the Official List to observe a moratorium of at least 2 weeks on the publication of their preliminary financial statements. Subsequently, the FCA, jointly with the Financial Reporting Council ("FRC") and Prudential Regulation Authority ("PRA") announced on 26 March 2020 a series of actions with respect to financial reporting, including (i) a 2-month deadline extension for publishing listed companies' audited annual financial reports (though there is no equivalent extension for half-yearly reports); (ii) encouraging listed companies to review their financial calendars to ensure sufficient time to make appropriate disclosures; and (iii) encouraging the postponement of planned auditor tenders. In addition, Companies House have confirmed that companies who require an extension due to the coronavirus outbreak, will be granted a 3-month extension to file accounts at Companies House. However, it is important to note that none of these measures affect the existing obligations under the Market Abuse Regulation (MAR) to announce inside information to the market as soon as possible unless there is a valid reason to delay disclosure.

The FCA, FRC and PRA have also encouraged investors, lenders and other users of financial statements to take into account the unique circumstances arising from the health crisis which may cause uncertainty in companies' financial positions, potential delays in providing financial information, the need for additional audit work to support audit opinions and the increased use of modified audit statements.

Moratorium on preliminary financial statements

On 21 March 2020, the FCA requested companies admitted to the Official List that were imminently due to prepare preliminary financial statements to announce a delay to the publication. The moratorium is voluntary – the FCA has reported that it was well observed and has confirmed that it will end on 5 April 2020.

The publication of preliminary results ahead of annual accounts is permitted, but not required, by the UK Listing Rules, and is largely driven by market practice among UK listed companies. The FCA recognised that reporting timetables set prior to the coronavirus outbreak, which may include publication of preliminary results, may no longer be appropriate, and the moratorium was intended to relieve the burden on UK listed companies and auditors by encouraging companies to thoughtfully use the time available to consider the events surrounding the coronavirus outbreak in preparing their disclosures, instead of facing unnecessary pressure to publish financial statements well in advance of regulatory deadlines in a fast-changing environment.

A number of companies have announced compliance with the moratorium, including (i) sports fashion retailer JD Sports Fashion, engineering company Smiths Group and roadside assistance provider AA who each delayed publication of their preliminary financial results; and (ii) home improvement company

Kingfisher and soft drinks group A.G. Barr, who each reported that they would announce revised dates for the publication of their full-year results.

AIM companies were advised to consult their Nominated Advisers as the moratorium did not apply to them.

Extension to deadline for publication of audited financial statements

As part of its longer-term measures, the FCA has announced temporary relief for all listed companies whose securities (equity or debt) are admitted to trading on a regulated market and whose home state is the UK and which are facing challenges to corporate reporting during the coronavirus crisis.

Such listed companies currently have 4 months from their financial year-end to publish audited financial statements. If they do not meet this deadline, the FCA may in certain circumstances impose a unilateral suspension of their listed securities.

The temporary relief will grant listed companies, who determine that they require additional time before completing their audited financial statements to reassess their business and operations in light of the pandemic, an additional 2 months in which to publish such audited financial statements. Whilst the FCA recognises that some companies may consider it appropriate to adhere to the 4-month publication timeline, it will not unilaterally suspend the listing of companies who instead elect to publish financial statements within 6 months of their year-end as a result of such delay. The FCA has also urged market participants not to draw undue adverse inferences when companies make use of the temporary relief measures.

The temporary relief does not extend to half yearly financial reports, which are still required to be published by such companies within 3 months of the half year end.

This extension will not apply to those with securities admitted only to markets that are not regulated markets under MiFID, including AIM or NEX Growth. Companies should also consider transparency rules in other jurisdictions which may apply to them.

Reconsideration of financial calendars

As companies are having to re-plan their financial calendars in light of the coronavirus pandemic, the FCA, FRC and PRA have encouraged a broader adjustment to market practice around financial reporting, including the current practice of issuing financial statements earlier than required. The regulators have recommended that listed companies review all elements of their timetables for publication of financial information to make appropriate use of the time available within regulatory deadlines to ensure accurate and carefully prepared disclosures going forward.

Extended deadline for Companies House accounts filings

Companies House has confirmed in a recent press release that, effective 25 March 2020, the 4.3 million businesses on the Companies House register (whether listed or unlisted) who must submit their annual reports and accounts are able to apply for a 3-month extension period to file accounts at Companies House during the coronavirus pandemic. Applications must be made prior to the expiry of the normal deadline and can be made through a fast-tracked online system – those applications citing issues around the coronavirus outbreak will be automatically and immediately granted an extension. Companies who have already requested a filing extension or who have shortened their accounting periods may not be eligible. This is likely to be of particular relevance to unlisted companies and listed company subsidiaries.

Postponement of auditor tenders

The FCA, FRC and PRA have encouraged companies to consider delaying planned auditor tenders even when a mandatory rotation is due, noting that where the auditors' initial appointment commenced after 17 June 1994, the FRC may extend certain mandates by up to 2 years in exceptional circumstances. Similarly, key audit partner rotations can be extended up to 7 years, provided this is approved by the audit committee of the affected entity.

Continued application of MAR

Despite the measures taken by the regulator to ease the burden of reporting in uncertain times, it is important for companies to remember that the Market Abuse Regulation (MAR) remains in force and issuers are still required to announce inside information to the market as soon as possible unless there is a valid reason to delay disclosure. Companies should continue to assess what constitutes inside information while recognising that the coronavirus pandemic and enactment of associated policies may change the nature of information that is material to their business prospects.

London Corporate Contacts

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