

Chapter 7

Corporate governance

7.1 Audit committees

Audit committees and their functions

- 7.1.1** **R** An *issuer* must have a body or bodies responsible for performing the functions set out in **■** DTR 7.1.3 R.
- 7.1.1A** **R**
- (1) A majority of the members of the relevant body must be independent.
 - (2) At least one member of the relevant body must have competence in accounting or auditing, or both.
 - (3) The members of the relevant body as a whole must have competence relevant to the sector in which the *issuer* is operating.
- [**Note:** article 39(1) of the *Audit Directive*]
- 7.1.2** **G** The requirements for independence and competence in accounting and/or auditing may be satisfied by the same members or by different members of the relevant body.
- 7.1.2A** **R** The chairman of the relevant body must be:
- (1) independent; and
 - (2) appointed by the members of the relevant body or by the administrative or supervisory body of the *issuer*.
- [**Note:** article 39(1) of the *Audit Directive*]
- 7.1.3** **R** An *issuer* must ensure that, as a minimum, the relevant body must:
- (1) monitor the financial reporting process and submit recommendations or proposals to ensure its integrity;
 - (2) monitor the effectiveness of the *issuer's* internal quality control and risk management systems and, where applicable, its internal audit, regarding the financial reporting of the *issuer*, without breaching its independence;
 - (3) monitor the statutory audit of the annual and consolidated financial statements, in particular, its performance, taking into account any

findings and conclusions by the Financial Reporting Council under article 26(6) of the *Audit Regulation*;

- (4) review and monitor the independence of the *statutory auditor* in accordance with paragraphs 2(3), 2(4), 3 to 8 and 10 to 12 of Schedule 1 to the *Statutory Auditors and Third Country Auditors Regulations 2016* (SI 2016/649) and article 6 of the *Audit Regulation*, and in particular the appropriateness of the provision of non-audit services to the *issuer* in accordance with article 5 of the *Audit Regulation*;
- (5) inform the administrative or supervisory body of the *issuer* of the outcome of the statutory audit and explain how the statutory audit contributed to the integrity of financial reporting and what the role of the relevant body was in that process; and
- (6) except when article 16(8) of the *Audit Regulation* is applied, be responsible for the procedure for the selection of *statutory auditor(s)* and recommend the *statutory auditor(s)* to be appointed in accordance with article 16 of the *Audit Regulation*.

[Note: article 39(6) of the *Audit Directive*]

- 7.1.4 **R** [deleted]
- 7.1.5 **R** An *issuer* must make a statement available to the public disclosing which body carries out the functions required by **■ DTR 7.1.3 R** and how it is composed.
[Note: article 39(4) (part) of the *Audit Directive*]
- 7.1.6 **G** An *issuer* may include the statement required by **■ DTR 7.1.5 R** in any statement it is required to make under **■ DTR 7.2** (Corporate governance statements).
- 7.1.7 **G** In the *FCA's* view, compliance with provisions A.1.2, C.3.1, C.3.2, C.3.3 and C.3.8 of the *UK Corporate Governance Code* will result in compliance with **■ DTR 7.1.1 R** to **■ DTR 7.1.5 R**.

7.2 Corporate governance statements

7.2.1 **R** An *issuer* to which this section applies must include a corporate governance statement in its directors' report. That statement must be included as a specific section of the directors' report and must contain at least the information set out in ■ DTR 7.2.2 R to ■ DTR 7.2.7 R and, where applicable, ■ DTR 7.2.8AR and ■ DTR 7.2.10 R.

7.2.2 **R** The corporate governance statement must contain a reference to the following, where applicable:

- (1) the corporate governance code to which the *issuer* is subject;
- (2) the corporate governance code which the *issuer* may have voluntarily decided to apply; and
- (3) all relevant information about the corporate governance practices applied over and above the requirements of national law.

[Note: article 20(1)(a) first paragraph of the *Accounting Directive*]

7.2.3 **R**

- (1) An *issuer* which is complying with ■ DTR 7.2.2 R (1) or ■ DTR 7.2.2 R (2) must:
 - (a) state in its directors' report where the relevant corporate governance code is publicly available; and
 - (b) where it departs from that corporate governance code, explain which parts of the corporate governance code it departs from and the reasons for doing so.
- (2) Where ■ DTR 7.2.2 R (3) applies, the issuer must make details of its corporate governance practices publicly available and state in its directors' report where they can be found.
- (3) If an issuer has decided not to refer to any provisions of a corporate governance code referred to under ■ DTR 7.2.2 R (1) and ■ DTR 7.2.2 R (2), it must explain its reasons for that decision.

[Note: article 20(1)(a) second paragraph and article 20(1)(b) of the *Accounting Directive*]

7.2.4 **G** A *listed company* which complies with ■ LR 9.8.6R (6) (the comply or explain rule in relation to the *UK Corporate Governance Code*) will satisfy the requirements of ■ DTR 7.2.2 R and ■ DTR 7.2.3 R.

- 7.2.5** **R** The corporate governance statement must contain a description of the main features of the *issuer's* internal control and risk management systems in relation to the financial reporting process.
[Note: article 20(1)(c) of the *Accounting Directive*]
- 7.2.6** **R** The corporate governance statement must contain the information required by paragraph 13(2)(c), (d), (f), (h) and (i) of Schedule 7 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (SI 2008/410) (information about share capital required under Directive 2004/25/EC (the Takeover Directive)) where the *issuer* is subject to the requirements of that paragraph.
[Note: article 20(1)(d) of the *Accounting Directive*]
- 7.2.7** **R** The corporate governance statement must contain a description of the composition and operation of the *issuer's* administrative, management and supervisory bodies and their committees.
[Note: article 20(1)(f) of the *Accounting Directive*]
- 7.2.8** **G** In the *FCA's* view, the information specified in provisions A.1.1, A.1.2, B.2.4, C.3.3, C.3.8 and D.2.1 of the *UK Corporate Governance Code* will satisfy the requirements of **■ DTR 7.2.7 R**.
- 7.2.8A** **R**
- (1) The corporate governance statement must contain a description of:
 - (a) the diversity policy applied to the *issuer's* administrative, management and supervisory bodies with regard to aspects such as, for instance, age, gender, or educational and professional backgrounds;
 - (b) the objectives of the diversity policy in (a);
 - (c) how the diversity policy in (a) has been implemented; and
 - (d) the results in the reporting period.
 - (2) If no diversity policy is applied by the *issuer*, the corporate governance statement must contain an explanation as to why this is the case.
- [Note: article 20(1)(g) of the *Accounting Directive*]
- 7.2.8B** **G** **■ DTR 7.2.8AR** does not apply to an *issuer* which qualifies as a small or medium company under **■ DTR 1B.1.7R**.
- 7.2.9** **R** An *issuer* may elect that, instead of including its corporate governance statement in its directors' report, the information required by **■ DTR 7.2.1 R** to **■ DTR 7.2.8AR** may be set out in:
- (1) a separate report published together with and in the same manner as its annual report; or

- (2) a document publicly available on the *issuer's* website to which reference is made in the directors' report.

Under (1) or (2), the corporate governance statement must contain the information required by ■ DTR 7.2.6R or a reference to the directors' report where that information is made available.

[Note: article 20(2) of the *Accounting Directive*]

7.2.10

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Subject to ■ DTR 7.2.11 R, an *issuer* which is required to prepare a group directors' report within the meaning of section 415(2) of the Companies Act 2006 must include in that report a description of the main features of the group's internal control and risk management systems in relation to the financial reporting process for the undertakings included in the consolidation, taken as a whole. In the event that the *issuer* presents its own annual report and its consolidated annual report as a single report, this information must be included in the corporate governance statement required by ■ DTR 7.2.1 R.

[Note: article 29(2)(b) of the *Accounting Directive*]

7.2.11

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- (1) An *issuer* that elects to include its corporate governance statement in a separate report as permitted by ■ DTR 7.2.9R(1) must provide the information required by ■ DTR 7.2.10R in that report.
- (2) An *issuer* that elects to include its corporate governance statement in a document publicly available on the *issuer's* website to which reference is made in the directors' report as permitted by ■ DTR 7.2.9R(2) must provide the information required by ■ DTR 7.2.10R in that document.