

February 28, 2020

UK Financial Reporting Council confirms commitment to enforcement

As preparations continue for the overhaul of regulatory arrangements relating to corporate reporting in the UK, the Financial Reporting Council (FRC) continues to emphasise its high expectations of auditors and companies and its increasing readiness to take action where they are not met. At an event in London earlier this week, its Director of Corporate Governance, David Styles, confirmed that alongside its continuing work to encourage adoption of and adherence to the Corporate Governance Code and Stewardship Code, it is building its supervision and enforcement capacity.

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He reiterated the message clearly sent in the FRC's [Draft Plan and Budget](#), in which it set out its plans to devote increased resources to more intensive supervision of audit firms (including challenger firms as well as the Big Four) and to take enforcement action where it finds infringements, in particular through the recruitment of additional forensic accountants and lawyers to speed up decision-making and enable it to take on more cases. Unveiling the plan earlier this month, the FRC's Chief Executive Sir Jonathan Thompson emphasised that it "builds a bolder, more forceful regulator that will act with pace in supervising and holding companies to account". The plan indicates that these enhancements are being made partly in anticipation of the implementation of the recommendations of the Kingman Review. That review concluded in December 2018 and suggested that the FRC should be replaced by the Audit Reporting and Governance Authority (ARGA), a new regulator with a broader remit and tougher powers to investigate and take action in respect of breaches of audit, reporting and corporate governance standards.

No firm timescales have yet been set for the launch of ARGA, although Sanu de Lima, the senior civil servant at the Department for Business, Energy and Industrial Strategy (BEIS) overseeing the process, did indicate at the same event earlier this week that we may expect decisions on the timing and scope of ARGA's powers "rather soon". BEIS has previously indicated that it would set out its plans by the end of March 2020. Amongst the other important indications Mr. de Lima gave was that BEIS will address the current anomaly whereby directors are only subject to enforcement action in respect of corporate governance and reporting failures if they fall within the FRC's remit as a consequence of holding a professional accountancy qualification and that BEIS is giving particular thought to how best to ensure that large companies are held to the same high standards in terms of governance, whether or not they are listed.

In a separate development, the past week has provided an illustration of the types of challenges the FRC and its successor body may face increasingly frequently when exercising investigatory and enforcement powers. In a [judgment](#) handed down last week, the Court of Appeal upheld a company's challenge to a notice issued by the FRC purporting to compel auditors to produce certain documents. Specifically, the Court confirmed that documents covered by legal advice privilege were not required to be produced, whether the privilege belonged to the auditor or the audited entity.