

LENS ON:

UK Corporate Governance Code 2024

January 2024

The UK's Financial Reporting Council (FRC) has published its UK Corporate Governance Code 2024 (the 2024 Code). Following the FRC's announcement in November 2023, only a small number of the original proposals set out in the May 2023 consultation document have been incorporated into the new Code.

The 2024 Code upholds the flexibility of 'comply or explain' reporting and includes a new Principle C setting out an expectation that governance reporting should focus on Board decisions and their outcomes in the context of corporate strategy and objectives. The stated intention of this change is to help companies streamline reporting on the 2024 Code and avoid boilerplate wording and long explanations of policy.

The 2024 Code replaces the 2018 Code and will apply to financial years beginning on or after 1 January 2025. However, a new Provision relating to internal controls (Provision 29, and not covered in detail here) will apply from a year later, to financial years beginning on or after 1 January 2026.

Remuneration-related changes

Very little change has been made to the Code's remuneration-related provisions. In summary:

- Provision 37, which relates to clawback and malus, has been amended to include that Directors' contracts (and/or other agreements or documents which cover directors' remuneration) should include reference to malus and clawback.
- A new Provision 38 expects companies to include in the annual report a description of their malus and clawback provisions, including:
 - the circumstances in which these could be used;
 - the period for which the provisions apply, why it has been selected and why this is best suited to the organisation; and
 - whether the provisions have been used in the last reporting period. If so, a clear explanation of the reason(s) should be provided.
- Provision 40 of the 2018 Code has been dropped. This required a description in the annual report of how the Remuneration Committee addressed the six factors which the 2018 Code required it to consider when determining executive remuneration policy and practices (i.e., clarity, simplicity, risk, predictability, proportionality and alignment to culture).

Ellason commentary

As anticipated following the November announcement, there are few changes to the remuneration section of the Code. The inclusion of the new Provision 38 is unlikely to be onerous for most companies; remuneration reporting regulations already require that any provisions for the recovery or withholding of any payment of sums are disclosed as part of the Remuneration Policy. In addition, the removal of Provision 40 provides a welcome relief to companies looking to streamline their reporting.

The continuation of the 'comply or explain' principle is helpful. At the launch of the 2024 Code, the FRC's CEO, Richard Moriarty, highlighted that compliance can mean either complying with the Code provisions or providing a cogent and justified explanation for why a provision is not suitable in specific circumstances for the company, while demonstrating the principles of good governance. The reiteration of this guidance is welcome.

Please do not hesitate to contact any of the Ellason team should you wish to discuss this issue further.