Insights

UK CORPORATE BRIEFING AUGUST 2026

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Summary

Welcome to the Corporate Briefing, where we review the latest developments in UK corporate law that you need to know about. In this month's issue we discuss:

Takeover Code – PCP 2026/1: Miscellaneous Code Amendments

The Takeover Panel has published PCP2026/1, proposing miscellaneous amendments to the Code covering acting in concert, reverse takeovers, PUSU deadline extensions, special deals and management incentivisation, and post-offer asset transaction restrictions. The consultation closes on 2 October 2026.

FCA proposed changes to the UK Listing Rules for closed-ended investment funds

The FCA is proposing changes to the UK Listing Rules for closed-ended investment funds, strengthening related party and conflict-of-interest protections around investment manager appointments, director independence, and shareholder voting on investment policy changes.

FCA Primary Market Bulletin No. 64

The FCA's Primary Market Bulletin No. 64 highlights shortcomings in total voting rights disclosures and reminds issuers to use clear, correctly classified TVR notifications. It also sets out observations on significant transaction and related party notifications under the reformed Listing Rules.

Replacement of Stamp Duty and Stamp Duty Reserve Tax

The government plans to replace Stamp Duty and SDRT with a single, self-assessed Securities Transfer Tax (STT), processed through a fully digital system. Legislation is expected in the Finance Bill 2026–27, with STT and a supporting digital portal taking effect in 2027.

Demat Report — UK Dematerialisation of Share Certificates

HM Treasury's DEMAT taskforce has published a report setting out the roadmap for withdrawing paper share certificates, with digital registers replacing paper as evidence of title for UK-traded shares of UK-incorporated companies from late 2027.

Duty to promote the success of the company is not purely subjective
Saxon Woods Investments Limited and others v Costa [2026] UKSC 21

This Supreme Court judgment clarifies that the duty of a director to act in the way he or she "considers, in good faith, is most likely to promote the success of the company" includes a duty to act in a way that is consistent – judged objectively – with their duty of loyalty to the company. It reinforces the board's role in good corporate governance by clarifying that individual directors "cannot go it alone" and act against the wishes of the board.

Takeover Code – PCP 2026/1: Miscellaneous Code Amendments

On 9 July 2026, the Code Committee of the Takeover Panel published PCP 2026/1, a consultation paper proposing miscellaneous amendments to the Takeover Code (the "Code"). The proposals are intended to clarify and simplify provisions and codify aspects of Executive practice, so the Code continues to operate clearly and effectively.

The key changes are summarised below.

- Acting in concert (Note 5 on the definition) – amendments to Note 5 on the definition of "acting in concert" to: (i) clarify that standstill agreements which restrict a shareholder from reducing its interests in shares (but not other types of standstill agreement) will normally lead to that person and the directors being considered to be acting in concert; and (ii) codify the Executive's practice that agreements requiring a shareholder to vote in line with the board's recommendation on resolutions regarding the appointment and/or removal of directors will also normally give rise to a concert party.

- Reverse takeovers – amendments to the definition of "reverse takeover" to make clear that it includes any acquisition by a Code company for which more than 100% of its share capital may need to be issued as consideration.

- Extending a PUSU deadline (Rule 2.6(c)) – deletion of the specified factors which the Panel takes into account when deciding whether to consent to the extension of a "put up or shut up" deadline, and the removal of the requirement for the offeree company to comment on those factors in an extension announcement.

- Special deals and management incentivisation (Rule 16) – amendments to require that, where an independent adviser must give a "fair and reasonable" opinion in relation to certain special deals or management incentivisation arrangements, the opinion must be expressed as being fair and reasonable “so far as shareholders are concerned".

- Restrictions on significant asset transactions following offers (Rule 35.1) – amendments to Note 1(a) on Rule 35.1 to clarify that, in line with the position following a Rule 2.8 "no intention to bid” statement, the Panel will not normally consent to a former offeror which had made an “unqualified” no increase statement or acceleration statement purchasing significant assets from the offeree company in the three months after its offer was withdrawn or lapsed.

FCA proposed changes to the UK Listing Rules for closed-ended investment funds

A recent FCA consultation paper sets out proposed changes to the UK Listing Rules for closed-ended investment funds, following the FCA's earlier announcement of a targeted review. The review was designed to, amongst other things, assess how the rules ensure boards support strong shareholder rights and manage conflicts of interest. Comments are welcomed by 14 August 2026, with the aim of the rules being finalised before the end of the year.

The changes proposed are designed to:

- Bring proposed investment managers within the scope of the UKLR 11 relevant related party provisions. The relevant related party transaction rules would then apply when a closed-ended investment fund enters into an agreement to appoint a new investment manager regardless of whether the proposed investment manager is or is not otherwise a related party. The aim is to safeguard against an investment manager leveraging their position to secure fee structures that may not be fair and reasonable before their appointment.

- Ensure that any director who is not independent of a proposed investment manager does not take part in the board’s consideration of the transaction or arrangement appointing that investment manager. A director is not independent of a proposed investment manager if they were proposed for appointment to the board by the proposed investment manager or its associates, or if they fall within the criteria set out in UKLR 11.2.13R.

- Ensure that the ongoing association between a director and any substantial shareholder (or its associates) that proposed them for a board appointment is adequately accounted for in rules, by amending the definition of ‘associate’, so that such directors cannot participate in related party or relevant related party transaction votes involving that substantial shareholder.

- Exclude a substantial shareholder and any of its associates from voting on any material change to the fund's published investment policy (which currently requires both FCA and shareholder approval) where a substantial shareholder is also the investment manager of a closed-ended investment fund. Where an associate of a substantial shareholder is the investment manager, exclude the substantial shareholder alone from such a vote. Both limbs are intended to mitigate conflicts of interest arising from these circumstances.

The proposals apply to a market comprising 264 closed-ended investment fund issuers, managed by 145 investment manager firms, with total assets under management of £217bn as at May 2026. The proposals seek, amongst other things, to prevent unfair management fee increases and material changes in the investment policy.

FCA Primary Market Bulletin No. 64

The FCA has published Primary Market Bulletin No. 64 setting out its findings on total voting rights disclosures (TVR) and observations on notifications made by issuers under UKLR 7.3 on significant transactions.

TVR notifications

Background: A company with shares admitted to trading on a regulated market (Main Market) or on AIM (if it is incorporated and has a principal place of business in the United Kingdom) must, at the end of each calendar month during which an increase or decrease has occurred, disclose to the public:

- the total number of voting rights and capital in respect of each class of share which it issues; and
- the total number of voting rights attaching to shares of the issuer which are held by it in treasury.

Note this obligation does not apply to third country issuers where (i) the law of the third country in question lays down equivalent requirements; or (ii) the issuer complies with requirements of the law of a third country that the FCA considers as equivalent.

FCA review: In 2025 the FCA conducted a short follow-up to its 2020 review to test the functioning of the notification regime. Whilst the results showed that most issuers included information relevant to TVR or share capital, the FCA is concerned that some disclosures lacked clarity. A minority of the sample included relevant share capital information, such as the total number of shares in issue within their disclosure but contained neither:

- A subsection for TVR.
- Any direct mention of the total number of voting rights.

Disclosures from this minority identified did not provide sufficient clarity.

In addition, a large minority of those issuers that had changed their share capital in the review period, did not categorise the relevant disclosure as ‘Total Voting Rights’ when uploading to the NSM.

What issuers should do

- Confirm TVR figures clearly. Issuers should ensure disclosures specifically confirm TVR figures in accordance with DTR 5.6.1R, particularly where these figures are included within a wider announcement.
- Use the correct headline classification where possible - for disclosures that confirm TVR figures, issuers should select, where possible, the applicable headline information classification of regulated information as ‘Total Voting Rights’ in accordance with DTR 6.2.2AR, and DTR 8 Annex 2R.
- Use explicit language when TVR is part of a broader disclosure - where total voting rights information is included within broader disclosures, issuers may use a headline other than ‘Total Voting Rights’ to reflect the main subject. Provided the disclosure expressly refers to ‘total voting rights’, the information can still be easily located via a keyword search on the NSM.

Significant transactions: notifying shareholders

A significant transaction is defined as a non-ordinary course of business transaction that represents 25% or more in any class test (UKLR 7.1.3R). Since the reform of the Listing regime, companies must now notify shareholders through a notification-based regime and, when notifying a transaction, ensure that investors have enough information on the risks and benefits of a transaction.

Under the Listing Rules the notification must include the effect of the transaction on the company, including any benefits which are expected to accrue to the company, and any risks to the company, as a result of the transaction (UKLR 7 Annex 2, Part 1, 1.1R(7)).

The FCA has monitored notifications made under UKLR 7.3 and engaged with market participants to understand how the notification requirements have become embedded.

- Disclosing risks to the company – in its review, the FCA observed differing approaches to the number and presentation of risks to the company. Some notifications moved away from the structured format used in class 1 circulars – where each risk was stated and briefly explained – towards more concise, high-level descriptions and a less defined structure. The number of risks notified varied across transaction types with some explanations of risks being generic. Guidance in UKLR 7.3.5G(2) states a company should consider the nature and circumstances of the transaction and what information is necessary to support shareholder engagement and market transparency. In line with this guidance, risk disclosures should be tailored to the company as a result of the transaction. The risk description should clearly articulate the risk to the company rather than be generic in nature.

- Board statements on best interests (UKLR 7 Annex 2, Part 1, 1.1R(16)) – the FCA noted some instances where the wording required for the board statement did not track the wording of the rule. The board statement should include the following wording: 'the transaction is, in the board's opinion, in the best interests of security holders as a whole.' Departures from this prescribed wording are not appropriate.

Related party transactions: board statements

This requirement to follow the prescribed text also applies to the fair and reasonable statement in related party transaction notifications under UKLR 8.2.2R(4). These notifications require a statement by the board that the transaction or arrangement is fair and reasonable as far as the security holders of the company are concerned and that the directors have been so advised by a sponsor. As set out in UKLR 8.2.4G, a clean confirmation, tracking the wording in UKLR 8.2.2R(4) should be given. Departures from this prescribed text are not appropriate.

Replacement of Stamp Duty and Stamp Duty Reserve Tax

The government has announced plans to introduce a single, self-assessed tax on transfer of securities, known as the Securities Transfer Tax (STT). STT will replace both Stamp Duty and Stamp Duty Reserve Tax (together, the Stamp Taxes on Shares (STS)) and is intended to modernise the taxation of securities transactions through a simplified, fully digital framework.

Under the new regime, all securities transfers will be processed through a comprehensive electronic system, eliminating the need for paper-based instruments, reporting, and payment processes.

The government intends to introduce the legislative framework for STT through the Finance Bill 2026–27, with the new tax and supporting digital portal expected to come into effect in 2027. Further details are expected in the autumn. Transitional provisions will apply for transfers of securities entered into before the commencement date.

The reforms form part of the government's broader agenda to simplify and modernise the UK tax system, while also supporting innovation, market efficiency and improved liquidity in UK capital markets.

DEMAT Report — UK Dematerialisation of Share Certificates

DEMAT was established in October 2025 by HM Treasury to deliver an implementation plan for digitising share ownership in the UK. The latest report sets out the roadmap for the withdrawal of paper share certificates, to take effect in late 2027.

Paper shares will no longer be legal evidence of share ownership and will in effect become obsolete and replaced with digital registers for those who wish to hold their shares directly.

DEMAT's terms of reference set out three objectives:

- Step 1 (this report) - Paper certificates replaced by digital share registers. Shareholders remain directly on the company's register; paper simply ceases to be evidence of title.
- Step 2 — Improvements to the intermediated (nominee/broker) system so ultimate owners can exercise rights effectively.
- Step 3 — All shares transition to the fully intermediated model.

This briefing focuses on Step 1. Steps 2 and 3 will be the subject of future consultations.

Scope

Under Step 1, the digital register model would apply to UK-traded shares of UK incorporated companies i.e. shares admitted to trading on a UK regulated market (such as the LSE Main Market) or an SME Growth Market (such as AIM or the AQSE Growth Market). It would not apply to warrants, unlisted shares or non-UK incorporated companies.

Proposals under Step 1

Under the proposals:

- share certificates would lose evidential value as to ownership title;
- the Companies Act 2006 will be amended to accommodate electronic transfer instructions;
- DEMAT proposes to undertake a sounding exercise with the lending community to assess properly the scale and nature of issues arising from the removal of paper certificates for existing security arrangements (e.g. shares pledged as loan collateral). A range of options are available;
- to facilitate cross-checking and prevent shareholders from accepting more than one contractual takeover offer in respect of the same shares, the Takeover Code could be amended to allow receiving agents acting for competing bidders to share details of non-CREST acceptances with one another; and

- legislation will be drafted so there is no mandatory requirement for issuers to amend their articles of association to give effect to the digital register model, although they may wish to do so voluntarily to avoid confusion.

Duty to promote the success of the company is not purely subjective

Saxon Woods Investments Limited and others v Costa [2026] UKSC 21

The Supreme Court has made clear that the test for whether a director has complied with the duty to "act in the way he considers, in good faith, would be most likely to promote the success of the company" is not purely subjective. Whilst the courts will generally respect a director's genuinely held business judgment as to what is in the company's best interests, compliance with the duty also requires an objective assessment of whether the director's conduct was consistent with his duty of good faith and loyalty to the company. So, a director cannot justify conduct that is objectively deceptive, disloyal, dishonest or otherwise in bad faith as towards the company simply by asserting that he believed it would ultimately benefit it. The judgment reinforces the board's role in good corporate governance by clarifying that individual directors "cannot go it alone" and act against the wishes of the board.

The case relates to a long-running dispute concerning a failure to comply with exit provisions in a shareholders' agreement (for further details please see our summaries of the High Court and Court of Appeal judgments). In summary, the shareholders and the company had agreed to work towards achieving an exit by the end of 2019, but Mr Costa – the company's chairman, who indirectly controlled a majority of the shares in the company - deliberately frustrated the process for achieving that exit. He believed that a higher valuation could be achieved at a later date and so it was in the best interests of the company and its investors to delay an exit. But, in doing so, he went against the board's commitment to the exit process, kept his fellow directors in the dark and misled them as to the steps he was taking - and the prospect of a higher valuation was then lost because of the impact of Covid-19.

The court framed the question before it like this: what is "the standard of conduct required of a company director when the director genuinely disagrees with his or her fellow directors as to the best route to achieving success for the company. Can he simply act single-handedly in driving the company towards his preferred objective, if necessary concealing what he is doing from his colleagues, or is his status as a fiduciary owing a duty of loyalty to the company, and the requirement that he act in good faith, sufficient to require him to disclose his opinion to his colleagues, to discuss it with them and to assist them in forming a collective view as to the best way forward for the company?". Put like that, the court's answer was not surprising: "an individual director cannot go it alone". It is not sufficient for a director simply to believe that what they are doing is most likely to promote the success of the company. They must also act in a way – judged objectively – that is consistent with their duty of loyalty and good faith to the company.

In reaching its decision, the court acknowledged that a plain reading of the duty – as set out in section 172 Companies Act 2006 – might suggest that all that was required was a subjective assessment: namely, did the director consider in good faith that his or her actions were most likely to promote the success of the company. The court also recognised the great importance of the principle that the court should respect the business judgment of directors as to the best way to promote the best interests of the company. However, the duty in the Act had to be understood in the context of the previous case law, the context and purpose of the section 172 duty and the practical requirements of corporate governance. The case law had established that the core duty of directors is loyalty to the company – and there was nothing to suggest that the need to respect a director's business judgment would trump that duty so as to allow a director to implement their own view when that was contrary to the view of the board. The context of the section 172 duty was a codification of directors' duties which was intended to operate in harmony with the governance of a company in accordance with its constitution. Permitting (let alone requiring) an individual director to pursue his own dissenting opinion would not achieve that purpose. On the contrary, it would be a recipe for chaos and paralysis in corporate governance and destructive of the collegiality of the board of directors as a whole which all stakeholders in limited companies are entitled to expect.

Related Capabilities

- M&A & Corporate Finance
- Corporate
- UK Public Company

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