

Minutes of the QCA Share Schemes Expert Group



Held on: Thursday 15 February 2018

Venue: RSM, 25 Farringdon Street, London, EC4A 4AB

Present:

Fiona Bell (Chair)	RSM	FB
David Daws	Blake Morgan	DD
Andy Goodman	BDO LLP	AG
Elissavet Grout	Travers Smith LLP	EG
Daniel Hepburn	PricewaterhouseCoopers LLP	DH
Stuart James	MM & K Limited	SJ
Graham Muir	CMS	GM
Phil Norton	Aon Hewitt Limited	PN
Richard Sharman	FIT Remuneration Consultants	RS
Anthony Robinson	Quoted Companies Alliance	AR
Callum Anderson (minutes)	Quoted Companies Alliance	CA

In attendance:

Phil Ainsley	Prism Cosec	PA
Catherine Ramsey	Mazars LLP	CR

1. APOLOGIES

Apologies were received from Emma Bailey, Michael Carter, Stephen Chater, Stephen Diosi, Juliet Halfhead, Caroline Harwood, Liz Hunter, Isabel Pooley, Robert Postlethwaite, Jennifer Rudman and Tim Ward.

2. MINUTES OF LAST MEETING (12 October 2017)

The minutes were approved.

3. ISSUES FOR DISCUSSION

	ITEM	ACTION
a)	<p>Market Abuse Regulation (MAR) – UK experience with respect to notifications being made by PDMRs regarding their performance shares and stock options</p> <p>FB explained that French colleagues at EuropeanIssuers had contacted the QCA regarding how notifications are made by managers under MAR with respect to their performance shares and stock-options.</p> <p>FB explained that, with respect to performance share awards, she had responded that, in the UK, there is no transaction until the PDMR has given</p>	None.

	<p>specific consent to a transaction. Citing the Q&As published by the combined City of London Law Society and Law Society Company Law Committees' Joint Working Parties on Market Abuse, Share Plans and Takeovers Code, this meant that there are only two transactions for a performance share plan where notification is required; on the grant and the actual transfer of the shares to the PDMR.</p> <p>FB asked Expert Group members for their views on the matter. There was general agreement that a two-stage notification process was by far the most desired practice. The Expert Group agreed that there was no appetite to report unless requested to by the FCA.</p> <p>The Expert Group discussed whether it should draft an information note to highlight good practice to QCA members; however that as there was no sign of the current regime causing companies problems, along with the issue being difficult to summarise well, that no note should be drafted.</p>	
<p>b)</p>	<p>Department for Business, Energy and Industrial Strategy (BEIS) announcement that it has appointed PricewaterhouseCoopers LLP to research the effect of share buybacks on executive pay</p> <p>FB noted that BEIS had appointed PwC to research the effect of share buybacks on executive pay. She explained that it was part of a wider review of corporate governance to address concerns that executive pay can sometimes be disconnected from company performance.</p> <p>It was clarified that DH did <u>not</u> participate in these discussions.</p> <p>The Expert Group exchanged views on the prevalence of the practice among small and mid-size quoted companies.</p> <p>There were doubts among a number of members as to whether any concrete evidence regarding the scale of using share buybacks to inflate executive pay existed.</p> <p>The Expert Group agreed to wait and see what PricewaterhouseCoopers concluded in its report, when it is published.</p>	<p>None.</p>
<p>c)</p>	<p>Funding for Employee Benefit Trusts (EBTs) – Dividend treatment</p> <p>FB explained that an issue that had arisen with HMRC was whether in the case where an EBT funded by a corporate that is a 'close' company, whether it would be able to receive distributions.</p> <p>She added that HMRC had not provided clarity in this regard, but that it would be welcomed if they decided to do so. She suggested whether the QCA should write to HMRC to inquire about this.</p> <p>A number of members of the Expert Group questioned whether this was more prevalent in the private company sector than in small and mid-size quoted companies.</p>	<p>FB to liaise with Caroline Harwood with regards to writing to HMRC on the issue.</p>

	<p>Nonetheless, there was no opposition to the QCA writing to HMRC to alert them of the issue and requesting clarity. FB suggested that Caroline Harwood of Crowe Clark Whitehill could lead on writing a letter to HMRC.</p>	
d)	<p>Information note on issuing new nil-cost option shares to employees and directors – Finalising the draft</p> <p>FB noted that CA had circulated a final draft of the information note regarding issuing new nil-cost option shares to employees and directors. She explained that the note had been formulated in response to the Expert Group meeting in October 2017.</p> <p>DH mentioned that he had a number of comments on the draft note and that he would send them to CA and FB in due course.</p>	<p>DH to send CA his comments on the information note.</p> <p>Any other comments to be sent to CA as soon as possible.</p>

4. COMMUNICATIONS AND FUTURE MEETINGS

	ITEM	ACTION
a)	<p>Year of Corporate Governance</p> <p>CA explained that 2018 was the QCA's Year of Corporate Governance which would be centred on the publication of the revised QCA Code. He added that the QCA was still seeking supporting sponsors. CA noted that Hayley Zeff, Head of Membership, was the contact point to discuss further.</p>	None.
b)	<p>2018 Annual Dinner</p> <p>CA noted that tables for the QCA's annual dinner – taking place on 20 September 2018 – were now available, with early-bird prices available until 28 February 2018.</p>	None.
c)	<p>Policy Update (January 2018)</p> <p>This was tabled for information only and was not discussed.</p>	None.
d)	<p>Guest invitations to future meetings</p> <p>The Expert Group agreed that HMRC should be invited to a future Expert Group meeting, although it was noted that there may be logistical difficulties, as the relevant team was now located in Bootle.</p> <p>It was also suggested that a Nominated Adviser come along to a meeting to discuss how they operate and how they interpret the AIM Rules.</p>	CA to invite guests to future meetings.

5. ANY OTHER BUSINESS

- FB noted that CA had circulated the QCA's draft response to the Financial Reporting Council's consultation on its proposed revisions to the UK Corporate Governance Code. She asked Expert Group members to send any comments to CA in good time before the 28 February 2018 deadline.
- The Expert Group briefly exchanged views on MiFID II implementation, since the directive came into force on 3 January 2018.
- Expert Group members also discussed how they and their clients were preparing for complying with the General Data Protection Regulation (GDPR), which comes into effect on 25 May 2018.

6. NEXT MEETING

Thursday 17 May 2018, 4.00pm – 5.30pm (Venue: RSM, 25 Farringdon Street, London, EC4A 4AB (Host: Fiona Bell))