

The Collapse of Thomas Cook: BEIS Letter of Recommendations

Article By:

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On 4 November 2019, in the looming shadow of the collapse of Thomas Cook Group plc (“**Thomas Cook**”), the Business, Energy and Industrial Strategy (“**BEIS**”) Committee published a [letter of recommendations](#) to the Secretary of State for the Department of BEIS, Andrea Leadsom.

The letter follows BEIS’ inquiry into the collapse of Thomas Cook and the factors that led to the global travel group’s downfall and covers a range of recommendations relating to corporate governance, audit reform and executive pay and bonuses, including the following:

- **Executive remuneration** – Recent guidance and reporting requirements have been introduced in both the UK Corporate Governance Code and the Companies (Directors’ Remuneration Policy and Directors’ Remuneration Report) Regulations 2019. However, BEIS noted that the code and guidance alone would not achieve change, and instead, a new and more powerful regulator should be introduced to replace the Financial Reporting Council (“**FRC**”).
- **Pensions** – Changes to executive pension contributions include the recommendation in the UK Corporate Governance Code that “pension contribution rates for executive directors, or payments in lieu, should be aligned with those available to the workforce”. The recommended replacement to the FRC would be expected to have a role in regulating this. These suggested changes are consistent with the Investment Association’s [announcement](#) earlier this year that it will ‘red-top’ companies who pay newly-appointed directors pension contributions which are not aligned with “the majority of the workforce”.
- **Bonuses** – Bonus scheme arrangements should always use pre-defined and non-ambiguous measures for executive bonuses, rather than measures that are open to interpretation or favourable adjustment.
- **Clawback** – Enforceable clawback provisions for all future performance bonus arrangements should be included to ensure that in situations where large bonuses are paid and it is subsequently clear that the terms of the award were not met, it is possible to legally claw back the bonus.

- **The role of the board** – BEIS emphasised the importance of diversity in board composition to ensure that decisions are sufficiently challenged and innovation is championed. They recommended that FTSE 100 companies be required by legislation to publish their workforce data, broken down by ethnicity and pay band and welcomed the Government's consultation into this.
- **Goodwill** – Further to the collapse of Carillion plc and Thomas Cook, where the accounting treatment of goodwill significantly impacted a company's financial performance, a review of accounting practices relating to goodwill has been recommended.

Many of the recommendations re-emphasise points of concern previously raised by BEIS. The recommendations indicate what next steps the Government may take to help prevent a monumental collapse, such as Thomas Cook, from happening again and considerations companies should have when reflecting on the way in which businesses are run. In any event, the letter from BEIS is a clear statement and push to encourage the Government to take urgent steps "in order to mitigate against the worst impact of corporate failures on employees, consumers, suppliers and taxpayers".

If these recommendations are actioned, we can expect to see further changes to corporate governance and increased reporting requirements as well as a new regulatory body replacing the FRC to police these obligations.

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