

London Real Estate Practice Quarterly Legal Update – Spring 2024



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Welcome to the GT London Real Estate Practice's Spring 2024 Newsletter, reviewing a range of legal and practice developments affecting stakeholders within the UK real estate sector.

Contractual Controls

The government has been seeking views on proposals to make certain data in respect of “contractual control” interests in land (rights of pre-emption, options, conditional contracts) publicly available to provide a more transparent picture of controls on land. The [consultation](#) closed on 20 March 2024.

In a [January 2024 GT Alert](#), [Matthew Priday](#) and [Rachel Whittaker](#) review the government's proposals and the potential impact on developers in particular.

5 Real Estate Trends for 2024

[Matthew Priday](#), [Ashia Adams](#), [Sue Wilson](#), [Rachel Whittaker](#), and [Dominic Provis](#) share the [five trends](#) they see as likely to influence or shape the UK's real estate landscape in 2024.

High Street Rental Auctions

The Levelling-up and Regeneration Act 2023, which makes various changes to local government and planning legislation, includes proposals giving local authorities the power to let vacant high street properties through compulsory rental auctions as part of the government's overall objective to “*revitalise the high street*”.

Matthew Friday, Sue Wilson, Rachel Whittaker, and Emily Chen analyse the proposed provisions and their potential impact in a recent [GT Alert](#) while we wait for publication of the detailed regulations.

Landlord and Tenant Act 1954

The recent decision in *Sainsbury's Supermarkets v Medley Assets Limited* re-examines the redevelopment ground under the Landlord and Tenant Act 1954 (commonly known as "Ground F") and highlights a potential new strategy for tenants when served with a landlord's section 25 notice opposing the grant of a new tenancy under Ground F.

In a recent [GT Alert](#), Sue Wilson and [Ailish Foad](#) analyse the decision and its potential impact.

Regulatory Changes on the Horizon

In the UK and Europe there are three key financial regulatory developments on the horizon which will impact real estate funds. These relate to a new ESG regulatory framework in the UK as well as the reform of Europe's Alternative Investment Fund Managers Directive (AIFMD) and Sustainable Finance Disclosure Regulation (SFDR). [Tim Dolan](#) has reviewed these financial regulatory developments in more detail below:

The UK's ESG Framework

In late 2023 the Financial Conduct Authority (FCA) published its policy statement setting the UK's regulatory framework for the promotion of products (including funds) to retail customers. In stark contrast to the legalistic European approach to ESG disclosures under SFDR, the FCA will, during the course of 2024, be introducing four labels to categorise financial products that have an ESG goal:

- Sustainability Focus – which invest at least 70% into credible environmental and/or social sustainability assets;
- Sustainability Improver – which invest into assets that are not environmentally or socially sustainable at the outset but have the potential to deliver measurable improvements;
- Sustainability Impact – which aim to achieve a positive, measurable contribution to real world sustainability outcomes; and
- Sustainability Mixed Goals – which invest at least 70% of assets into a combination of the above categories.

These new categories, when coupled with the FCA's anti-green-washing rule and new ESG reporting requirements for UK AIFMs, will have many UK financial services firms in 2024 re-evaluating how they describe and designate their financial services products from an ESG perspective.

Critically, however, the FCA's labelling regime at present only relates to UK funds promoted to UK retail investors, although a consultation is expected on the application of a similar regime to non-UK funds being promoted into the UK.

SFDR Reform Already?

The European Commission (EC) finished consulting on reform of the SFDR. While it may be surprising that such a recent regulation is already being reviewed, it is equally clear that the SFDR, which was never intended to introduce a labelling regime, has done just that.

SFDR labels have developed by reference to provisions in the Regulation (article 8/article 9) which provide a helpful description to investors, managers, and regulators as to what ESG strategy a fund is actually pursuing. The EC is now considering whether sustainability product labels would be more useful.

AIFMD II

After several years of negotiation, the near-final text for the Alternative Investment Fund Managers Directive (AIFMD) II has been published. While the introduction of the AIFMD a decade ago imposed what were, at the time, substantial changes to the regulation of alternative funds, the AIFMD II text is not so radical and, except for important changes in requirements relating to loan originating AIFs, does not amount to a rewiring of the AIFMD framework.

The thrust of the new directive is to impose substantial extra regulation on AIFs and AIFMs which conduct loan origination (including leverage limits; risk management obligations; a 5% skin in the game retention; restrictions on lending to other AIFs; and more detailed disclosure obligations). The key changes will take effect in two years. New requirements for loan originators will be applied in stages, with some not being implemented until 2029.

Steven Cowins, Marc Snell, Tim Dolan, Dr. Kati Beckmann, Wietse de Jong, and Peter Zingel look at the impact of AIFMD II in more detail in this [GT Alert](#).

Restructuring Plans

In March 2024, the English High Court sanctioned the Part 26A restructuring plan of Project Lietzenburger Straße HoldCo – an intermediate holding company to Project Fürst, a large multipurpose property development in Berlin with total secured debt exceeding €1 billion. A cross-border team from GT London and GT Germany including [John Houghton](#), [Rupert Cheetham](#), [Mollie O'Connor](#), [Sara Berendsen](#), [Florian Rösch](#), and [Jakob Jürgensen](#) co-advised an ad hoc committee of senior creditors to the holding company in relation to this matter. In this [GT Alert](#), they analyse the key takeaways from the High Court judgment and share the lessons learned.

The GT London Restructuring & Bankruptcy team have also recently [advised](#) on the administration sale of four holiday parks that operated within the wider RoyaleLife Group who faced financial distress due to liquidity issues and limited refinancing capabilities.

Editors

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