

# Recapitalisation



Simmons & Simmons has a market leading ECM practice, built on specialist integrated UK ECM, US Securities laws, financial services regulatory, Listing Rule sponsor transaction expertise and service excellence.

The team has a wealth of experience acting for issuers, shareholders, Listing Rule sponsors, and underwriting banks on complex recapitalisations involving equity capital raisings.

We offer compelling value and pride ourselves on being genuinely collegiate team that offers high-quality, partner-led execution.

## Key mandate experience

The team has acted on countless number of recapitalisations, including during COVID and the global financial crisis. Members of the team have recently advised:

- the underwriting banks and sponsor on the £552m rights issue by Hammerson;
- the underwriting banks and sponsor on the £100m firm placing and placing and open offer by Costain Group;
- the underwriting bank on the standby underwriting provided to Mothercare as part of its £113.5m debt and equity refinancing;
- a major shareholder on the £297m firm placing and placing and open offer by Shaftesbury;
- the underwriting banks and sponsor on the £331m rights issue by Provident Financial;
- the underwriting banks and sponsor on the £185m rights issue by Laird; and
- the underwriting banks and sponsor on the £80.8m rights issue by Chemring.

## Case study: balance sheet strengthening by Costain Group plc

This involved a £100m equity capital raise structured as a firm placing and placing and open offer (the “Capital Raise”), an extension of Costain’s existing debt facilities (conditional on the Capital Raise) and an updated pension deficit recovery plan agreed with the Costain pension scheme trustee (together, the “Transaction”).

### The challenge

The proposed Capital Raise was fully underwritten on a standby basis at the time Costain announced its 2019 preliminary results on 11 March 2020, a few days before the first UK lockdown. Costain is listed on the Main Market of the LSE. The prospectus published by Costain in connection with the Capital Raise (the “Prospectus”) was one of the first prospectuses prepared, approved by the FCA and published under the FCA’s revised approach to working capital statements in prospectuses and circulars during the coronavirus crisis announced in April 2020. The Capital Raise also included a £25m strategic investment from ASGC, a leading UAE based construction company.

### Advising the underwriting banks and the sponsor

We advised Investec, Liberum and HSBC as the underwriting banks (the “Underwriters”), and Rothschild & Co as Listing Rule sponsor, to Costain on the transaction. Guiding the Underwriters on the terms of the standby underwriting commitment and the terms of the Capital Raise underwriting agreement, the Sponsor on its roles and responsibilities under the Listing Rules and the Underwriters and Sponsor on the Prospectus and inter-play between the different aspects of the wider Transaction.

### Executing a complex transaction with a multi-disciplinary approach

Our responsive, multi-disciplinary team of specialist financing lawyers and Listing Rule experts, drew on their existing knowledge of market practice from previous multi-faceted refinancing transactions. Helping all parties to execute this complex transaction.

## Key considerations



**Timing** – the speed at which the capital is needed will drive the timetable. Smaller non-pre-emptive equity issues can be done relatively quickly without a prospectus, whilst larger transactions take longer, as documents and the associated disclosure take time to be prepared



**Quantum** – the more capital that needs to be raised, the longer the process will be, as the equity raise will require a prospectus and may need to be offered to shareholders on a pre-emptive basis



**Interaction with debt financing** – typically equity recapitalisations are conducted in light of a potential debt covenant breach or potential event of default. Lenders will want a say on the size and nature of the equity raise and will have to be involved in the process



**Pre-emptive offer or PIPE / cornerstone investment** - issuers will be keen to look after existing shareholders as much as possible, but it may be difficult to turn away an investor who is only interested in taking a significant proportion of the company



**Wider transaction implications** - rescue situations may involve changes of control under the City Code on Takeovers and Mergers adding additional factors to the equity issue including the need for the transaction to be whitewashed by shareholders.

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“Strength in depth in key areas that complement ECM, such as US securities law and a particularly strong regulatory practice.”

Legal 500 2020

“Simmons & Simmons have real strength in depth, with highly competent specialists that make even the most complex deals easy. Also, they have a great attitude and are a pleasure to work with.”

Legal 500, 2021

Shortlisted for “Corporate Team of the Year 2020”

The Lawyer

With “strengths at partner and associate level”, Simmons & Simmons’ equity capital markets practice is “hard to match in terms of value of service and partner oversight”

Legal 500

## Key contacts



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