The New UK Listing Rules: What do they mean for you?

Three and a half years after Lord Hill's UK Listing Review was published, the Financial Conduct Authority (FCA) has now published the new UK listing rules, which come into force on 29 July 2024.

According to the FCA, the new rules mark the most **significant** change to the UK's listing regime in over three decades. The stated aim is to move away from a rules-based approach to a disclosure-based regime, which provides more flexibility to listed companies and allows investors access to a wider array of companies, albeit with fewer protections built into the listing requirements.

In this briefing, we set out what the new listing rules (UKLRs) mean for companies (both those already listed and those seeking a listing), their directors and the adviser community. It isn't quite "all change", but there is a lot for us all to get to grips with in short order.

1. Summary of key changes from the current regime

The key changes between the new and current regimes include:

- a single listing segment of the Official List with categories for different types of companies and securities
- a single listing category for equity shares in commercial companies (commercial companies category) effectively combining the premium and standard listing segments
- the removal of certain premium listing eligibility requirements from the commercial companies category including the need for 3 years of historic financial information, a revenue track record and a "clean" working capital statement, as well as modified

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	Commercial companies	Premium	Standard
Overarching			
Listing Principles	Enhanced principles with more onus on directors' role	↑	↑
Sponsor regime	Applies, but role reduced after IPO	↓	↑
Eligibility			
3-year track record	Not required and no need for 75% of business (although complex financial history prospectus requirements will apply)	↓	–
"Clean" working capital	Not required	↓	–
Independence / control of business	More flexibility and focus on ability to comply with MAR, LR and DTR	↓	↑
Controlling shareholders	No relationship agreement otherwise similar to current premium listing requirements; director opinion on shareholder resolution	↓	↑
Dual class share structures	Natural persons/institutional investors permitted to have enhanced voting rights (with certain exceptions); no sunset provision for natural persons, 10 years for institutions	↓	↑
Pre-emption rights	Required	–	↑
Board confirmation	Required in relation to systems and controls/record keeping	↑	↑
Continuing obligations			
UK Corporate Governance Code	Requirement to "comply or explain"	–	↑
Related party transactions	Disclosure and sponsor confirmation, but no shareholder vote	↓	↑
Significant transactions	Simplified class tests (no profits test) and more guidance on definition of ordinary course transaction; prescribed notification for significant transactions; no prescribed disclosure for class 2s; no requirement for shareholder approval or circular; no requirement for profits test	↓	↑
Reverse takeovers	Broadly the same as existing requirements	–	–
Delisting	Shareholder approval and controlling shareholder regime applies	–	↑
Shareholder vote on discounted offers	Required	–	↑

Key: ↑ Increased obligations under the proposed new Listing Rules

↓ Decreased obligations under the proposed new Listing Rules

– No substantive change

requirements around the control and independence of a company's business

- a more permissive regime for dual class share structures (DCSSs) on the commercial companies category
- no requirement for shareholder approval for significant transactions (other than reverse takeovers) or related party transactions (RPTs) on the commercial companies category
- a new category for non-UK companies seeking a secondary listing in London (international secondary listing category)
- a new transition category for certain companies currently on the standard listing segment who do not want to step up to the commercial companies category or who are ineligible for any other listing category
- a reduced role for sponsors after IPO
- a new board confirmation regarding procedures, systems, and controls for all companies on IPO

2. Summary of key changes from CP23/31

There have been late changes to the final rules from the proposals in the FCA's final consultation paper (CP 23/31). For those who have been following the reform process closely, the key differences from CP23/31 include:

- **controlling shareholder regime** - no longer a requirement for a relationship agreement; amended guidance on factors indicating independence; new provision for a director opinion indicating disagreement with a resolution put to shareholders by a controlling shareholder
- **DCSSs** – enhanced voting rights may now be granted to legal entities (i.e., institutional investors) with a sunset clause of 10 years
- **significant transactions** – a meaningful retrenchment on the mandatory disclosure requirements and the right to bifurcate disclosure if certain information is not available when the initial notification of the transaction is made
- **international commercial companies secondary listing category** – greater flexibility on jurisdiction of incorporation to allow more companies to be eligible
- **shell companies** – additional flexibility on time limit for completing a transaction and guidance (rather than mandatory rules) on avoiding suspension on announcement of a transaction

3. What do the new rules mean for listed companies?

3.1 Existing listed companies

The FCA has contacted all existing listed companies to inform them of their new listing category. Premium listed companies have been mapped either to the commercial companies category or to one of the funds categories. Standard listed companies with equity shares have been mapped to the international commercial companies secondary listing category, the shell company category or the transition category.

(A) Premium listed companies mapped to the commercial companies category

(1) *Significant transactions*

Perhaps the most meaningful change for existing premium listed companies will be that significant acquisitions and disposals will no longer require shareholder approval. This change should make listed companies more competitive in auction processes when bidding to make acquisitions, and make it easier to find buyers when seeking to make a disposal.

In place of the existing requirements, there will be a notification regime for transactions which are 25 per cent. or above the relevant percentage ratios when class tested.

The class tests themselves have been streamlined with the removal of the profits test which will mean fewer transactions should be caught by the 25 per cent. threshold. Furthermore, as the definition of "ordinary course" has been broadened, some transactions will no longer even fall within the scope of the significant transaction regime (which applies only to transactions outside of the ordinary course). However, a reverse takeover cannot be "ordinary course".

Break fees are excluded from the significant transaction regime, although guarantees and indemnities will still need to be class tested. There seems little logic to drawing this distinction, but we assume it is because the FCA received feedback that not being able to offer a break fee above 1 per cent. of market capitalisation made premium listed companies uncompetitive in the global M&A market. If a company provides a break fee in connection with a significant transaction, it will be necessary to disclose this to shareholders (no matter what its size).

Joint ventures still fall within the significant transactions regime and the previous guidance around classifying joint ventures has been retained.

If meeting the 25 per cent. threshold for a significant transaction, a commercial company will be required to publish one or more notifications.

The first notification must be published as soon as possible after the terms of a significant transaction are agreed and must include certain specified information, which is broadly similar to that currently required in a class 2 announcement. That announcement must also include "any further information" the company considers relevant, bearing in mind that the purpose of the requirements is to support engagement between the company and its shareholders and to enhance market transparency. It must also include a statement by the board that the transaction is, in the board's opinion, in the best interests of security holders as a whole. When considering the contents of the announcement, companies will also have to consider their obligations under UK MAR.

A further notification is required to be published as soon as possible after the information required to be included in it becomes available (and in any event before completion), which means that if the information is available at agreeing the terms of the transaction, the first and second notifications could be combined in one announcement.

In the case of a disposal, the additional disclosure that may be published later includes two years' audited financial information on the target, or where financial information is not available, a statement by the board that the information is not available, an explanation as to how the value of the consideration has been arrived at and a statement by the board that it considers the consideration to be fair as far as the security holders of the company are concerned. However, two years' audited financial information on the target is not required where the transaction is an acquisition. Whilst the reasoning behind this appears to be practical (i.e., it can take time to produce this information and the question then arises as to whether it needs restating in the accounting policies of the listed company so as not to be misleading), it does seem to us to be a slightly perverse outcome.

The additional disclosure also includes information on litigation, material contracts, RPTs and significant change in a similar way to a class 1 circular (although information on material contracts is only needed if the information would be information a shareholder would need to make a properly informed assessment of the transaction and its impact on the company).

Where a company chooses to include synergy benefits or pro forma information in the

notification there are content requirements to follow. Where financial information is included, the source of the information must be cited, and a statement must be included indicating where the information has been extracted from.

There will also need to be a further notification, when the transaction has completed.

There will be no need for a sponsor to provide a declaration on the notifications or for a working capital statement to be included in the notifications. Notifications will not be reviewed or approved by the FCA. However, a sponsor will be required to provide a sponsor service on a significant transaction if a company seeks guidance on the application of the class tests or requests an FCA waiver or modification in relation to the class tests.

If the transaction does not meet the 25 per cent. threshold, there will be no mandatory disclosure requirements other than under UK MAR. This contrasts with the current regime where a class 2 announcement is required setting out limited information. Under the new regime, it will be more subjective as to what companies disclose, and companies will be required only to disclose those details that amount to inside information.

(2) *RPTs*

As with significant transactions, under the new RPT regime, there will no longer be a requirement for a shareholder vote for larger RPTs. Instead, the company will have to make a notification for RPTs which are 5 per cent. or above when class tested. That notification will include a "fair and reasonable" opinion from a sponsor.

An amendment which should have a significant effect on the RPT regime is the change to the definition of "substantial shareholder" where the percentage has been increased from 10 per cent. of issued share capital to 20 per cent. This change will mean that there are fewer RPTs as RPTs are often transactions between a listed company and a substantial shareholder.

Responding to feedback that it is confusing to have two different but slightly overlapping regimes, companies that are required to comply with the related party rules in the UKLR are not required to comply with DTR 7.3, given that UKLR 8 effectively replicates DTR 7.3.

(3) *Contact details*

Under the new rules, there is a requirement to notify the FCA of two director contacts and to provide the FCA with a name and an address for service. There will be a form to fill in for these new details which will be available on the FCA website from 29 July 2024 although the requirement to comply does not apply to existing listed companies until 30 January 2025 .

(4) *What has not changed*

For those companies that are not active in M&A nor enter into RPTs, life as a listed company will continue very much as before.

The following remain as continuing obligations for commercial companies:

- **pre-emption rights** – commercial companies will be required to offer new shares on a pre-emptive basis in the same way as premium listed companies do now. This has been retained on the basis that it is a "cornerstone" of the UK market
- **discounts not to exceed 10 per cent**. – despite pushback from market participants, the rule requiring shares not to be issued at a discount of more than 10 per cent without shareholder approval (other than pursuant to a rights issue) has been retained
- **annual report disclosures** – these remain the same, including requirements to disclose on a "comply or explain" basis against the UK Corporate Governance Code, and make TCFD and diversity disclosures
- **reverse takeovers** – a reverse takeover (i.e., an acquisition which triggers 100 per cent. or when class tested) will be subject to the same rules as currently, requiring a

shareholder vote, the publication of a prospectus by the company, and a reconfirmation of eligibility for listing

- **buybacks** – the rules on companies buying back their own shares which are currently set out in Chapter 12 of the Listing Rules are retained except that a buyback circular will no longer need to be approved by the FCA or required to include a working capital statement and there will be no need to appoint a sponsor
- **shareholder approval for LTIPs** – these rules remain the same

(B) Standard listed companies mapped to the transition category

Standard listed companies that have moved to the new transition category will see little change. However, one change to be aware of is that there is now one set of Listing Principles which apply to all listed companies. For transition companies, Listing Principles 3 to 6 (see below) will be new although the requirement to comply does not apply until 30 January 2025.

- **Listing Principle 3** – a listed company must take reasonable steps to enable its directors to understand their responsibilities and obligations as directors
- **Listing Principle 4** – a listed company must act with integrity towards the holders and potential holders of its listed securities
- **Listing Principle 5** – a listed company must ensure that it treats all holders of the same class of its listed securities that are in the same position equally in respect of the rights attaching to those listed securities
- **Listing Principle 6** – a listed company must communicate information to holders and potential holders of its listed securities in such a way as to avoid the creation or continuation of a false market in those listed securities.

In addition, the requirement to notify the FCA of two director contacts and to provide the FCA with name and address for service will apply as set out above.

The FCA has clarified in PS24/6 that there is no end date to the transition category but the commentary in various consultation papers makes it plain that the FCA would like companies to find a new home in one of the new listing categories. The FCA has stated that it will consult on any move to close the transition category and such companies will be given ample notice.

In a clear sign that the FCA does not want companies to remain on this category indefinitely, the FCA has confirmed in PS 24/6 that transition companies who do a reverse takeover will not be readmitted to the transition category on completion but will have to seek a listing on a different category.

For the moment, companies on the transition category should be weighing up their options. A step up to the commercial companies category comes with more obligations, as set out above and in the table on page 2. Another option would be to move to AIM. Both will involve the appointment of a sponsor or a nominated adviser and a certain amount of diligence and process and so some companies may wish to wait until they are conducting a transaction before incurring this expenditure.

(C) Standard listed companies mapped to the international commercial companies secondary listing category

For companies mapped to the international commercial companies secondary listing category, their experience will be similar to having a standard listing, with a number of minor changes such as the requirement to comply with the new set of Listing Principles. Again, the requirement to notify the FCA of two director contacts and to provide the FCA with a name and address for service will apply as set out

above (although these requirements will not apply until 30 January 2025).

Please see here for our briefing on the international commercial companies secondary listing category which sets out the detailed eligibility and continuing obligation requirements. There are no new obligations which should be difficult for companies to comply with.

(D) IPO candidates

The new eligibility requirements for the commercial companies category should make it more attractive to a wider array of IPO candidates. The lure of the commercial companies category for many companies will be the ability to be included in the FTSE indices. FTSE Russell has confirmed that the commercial companies and closed ended investment funds (CEIF) categories will be the eligible categories for indexing purposes from 29 July 2024, replacing the premium listing segment.

(1) *Financial information*

The FCA has abolished much of the premium listing financial information eligibility requirements for the commercial companies category, including the need for:

- three years of historic financial information representing 75 per cent. of the company's business up to a date no earlier than six months prior to publication of the prospectus (and nine months prior to admission)
- a revenue earning track record
- a clean working capital statement

However, companies seeking a commercial company listing should be aware that investors will still want to see sufficient financial information to enable them to due diligence applicants to their satisfaction, so the market is likely to dictate the financial disclosure requirements in any event. The current prospectus regime also requires a company to disclose historical financial information, including where a company has a complex financial history (i.e., because of acquisitions or disposals). As such, unless the prospectus regime changes, companies should not expect that the minimum level of financial disclosure on IPO will be significantly less burdensome.

These changes are, however, good news for high-growth companies who do not have three years' financial information or do not have a revenue track record over three years. It is also helpful to capital-hungry companies who may want to access the equity markets again quickly after listing. They can disclose this in a qualified working capital statement and not be excluded from the commercial companies category.

(2) *Independence*

The FCA has also deleted the current premium listing eligibility and continuing obligations requirements around independence (unless there is a controlling shareholder – see below) or control of business. This will allow a wider range of companies to list on the commercial companies category, including royalty companies and companies with a franchise model, which has been one of the key objectives of Lord Hill's UK Listing Review and is to be welcomed.

(3) *Controlling shareholders*

The requirement for companies with a controlling shareholder to demonstrate that they can carry on their main business activity independently from the controlling shareholder has been retained together with the requirement to have a constitution that allows for votes by independent shareholders for election and re-election of independent directors. It should be noted, however, that the factors that the FCA will take into account in assessing non-independence have been slimmed down considerably when compared to the current list of factors, perhaps because the factors now omitted related to undue influence by a

controlling shareholder and the previous factors were considered to be too subjective.

Furthermore, in a surprise change, the FCA has reverted to its previous position that relationship agreements are no longer required for commercial companies with a controlling shareholder. Instead, there will be a new rule that permits directors to include a statement in a shareholder circular where they consider that a resolution put forward by a controlling shareholder is intended to circumvent the proper application of the listing rules.

We would be very surprised if the removal of the requirement to have a relationship agreement will change market practice much, if at all. Where there is a controlling shareholder, investors welcome systems and controls that govern the relationship between that shareholder and the company. The AIM Rules for Companies (AIM Rules) have no requirement for a relationship agreement, yet they are commonplace on that market.

(4) *DCSSs*

The new regime sets out a more flexible approach to DCSSs than the current premium listing regime. There is now no limit to the voting ratio and who can hold enhanced voting rights, although where the holder is not a natural person, there is a sunset provision of 10 years (there is otherwise no sunset provision). Enhanced voting rights are permitted on nearly all matters save for those that impact other shareholders directly (i.e., >10% discounts on share offerings, cancellation or transfer of listing, employee share schemes, and buybacks). Enhanced voting right shares can only be transferred to persons established for the sole benefit of or owned or controlled by the person to whom the shares were originally issued.

Overall, we think the broadening of the eligibility requirements has the potential to make a substantial difference to the attractiveness of the UK listing regime to a more diverse group of companies. In particular, the changes place emphasis on an investor's right to choose which types of company it wishes to invest in and choose their own risk appetite. This is an outcome endorsed by the FCA as it moves away from a rigid rules-based approach. These changes have received a lot of publicity although time will tell as to how significant these changes will be in practice.

(E) AIM-quoted companies

The new listing regime presents potential opportunities for AIM companies and larger AIM companies should be considering whether a move to the commercial companies category would be beneficial, particularly if they are of a size where they are eligible for indexation.

At one point in the consultation process it appeared that the commercial companies category might render AIM obsolete given the eligibility requirements and continuing obligations of the commercial companies category were so limited. However, the final changes do leave a place for AIM. Factors that AIM company might want to consider when weighing up their options include:

- **liquidity and FTSE indexation** – as set out above, FTSE indexation is key for many companies because of the increased liquidity that it brings. A commercial companies category listing provides greater access to investors, particularly if a company is eligible for FTSE 250 inclusion
- **IHT funds** – for many AIM companies IHT funds make up a significant proportion of their share register. As tax benefits are not available for listed (as opposed to AIM) securities, these funds will wish to sell down should a company step up to the Official List leaving an overhang on the shares which could negatively impact share price
- **issuing shares** – as mentioned above, the FCA has retained the current restriction on companies issuing shares at more than a 10

per cent. discount without shareholder approval (except pursuant to a rights issue). This may be a disincentive for smaller companies whose share price is more volatile. In addition, the prospectus rules still require an approved prospectus for companies that issue 20 per cent. or more of their issued share capital during a 12-month period. This will apply to commercial companies but not to AIM companies (as AIM is not a regulated market). It is, however, expected that this threshold will rise as part of the prospectus regime reform expected to come into force during H1 2025, although it is not clear what the new threshold will be. Depending on where this ends up, we may see increased interest in stepping up from AIM companies

- **corporate governance** – companies listed on the commercial companies category are required to "comply or explain" with the UK Corporate Governance Code in their annual report and market expectation is that commercial companies will have more independent non-executive directors than a typical AIM company. Further, the commercial companies category rules will require a company to make disclosures around compliance with TCFD (soon to be ISSB) in their annual reports. In most cases, these corporate governance requirements will add cost that will be material to smaller companies
- **advisers** – the AIM regime requires a nominated adviser at all times whereas the commercial companies regime only requires a sponsor at certain touch points which are significantly reduced under the new regime

It is expected that the London Stock Exchange will respond to the UKLRs and amend the AIM Rules, although it is not clear whether there will be a tidy up of the AIM Rules or a root and branch reform. In some areas, the AIM Rules will, from 29 July, be more burdensome than those for a commercial company. By way of example, AIM has five class tests as both the gross profits and gross turnover tests no longer apply to commercial companies on the Main Market, and the definition of substantial shareholder for related party purposes on AIM is still 10 per cent. as opposed to 20 per cent. on the commercial companies category.

(F) Companies with a non-UK primary listing

Companies with a non-UK primary listing will be able to list either on the commercial companies category or the international commercial companies secondary listing category. Please see here for our briefing on the international commercial companies secondary listing category which sets out the detailed eligibility and continuing obligation requirements.

This secondary listing category is only open to companies who are not UK incorporated. If companies are UK incorporated and have a primary listing elsewhere (for example in the United States) the FCA has made clear that any "secondary" listing would need to be on the commercial companies category.

4. What do the new rules mean for directors of commercial companies?

(A) Significant and related party transactions

One effect of simplifying the listing regime, particularly in the context of significant transactions and RPTs, is that without the need to seek shareholder approval or appoint a sponsor, directors will need to give more thought to how they can be comfortable that (i) a transaction is supported by shareholders, (ii) shareholders are sufficiently informed of the transaction and the impact it will have on the company, and (iii) the company is able to fulfil its listing obligations once the transaction has completed.

As set out above, under the current class 1 and RPTs regime, directors had safeguards in place to ensure that investors are adequately informed

and have the opportunity to have their say (in the form of a vote) on material transactions.

The circular disclosure for a class 1 transaction requires a company to produce three year historic financials for the target on a class 1 transaction in IFRS and using the company's accounting policies, all subject to a reporting accountants' report. Similarly, if pro forma information is provided to shareholders, the accountants are required to report against it. There is also a sponsor, who acts as an intermediary between the FCA and the company to ensure that the Listing Rules are complied with, and is required to confirm to the FCA that it is satisfied with the work done to ensure that the company has sufficient working capital and can continue to comply with its listing obligations following completion of the transaction.

The new world is different. None of the processes above are required by the listing regime and therefore it is up to the board to decide what they will need to do to ensure they meet their directors' duties and responsibilities under the UKLRs.

We imagine that, whilst the new regime provides flexibility to companies, directors may well want the diligence previously required by sponsors to be conducted in any event.

By way of example, if publishing financial information on a target in an announcement in order that investors can understand the rationale for a transaction, how will the directors be comfortable that they have taken reasonable steps to ensure that it is not misleading (a requirement of UKLR 1.3.3R) without asking an accountant to provide some comfort?

Will directors be comfortable acquiring an unlisted target with financials in GAAP, knowing that, from completion, the company will need to ensure it can obtain the relevant information from the target to keep the market updated as to its financial performance? We can imagine a scenario where directors may well want "FPPP" work conducted ahead of signing a transaction.

Further, if there is no opportunity for shareholders to bless a transaction, we think it is likely that directors may seek third-party comfort on the terms of the transaction, and in particular the consideration payable. One option would be that directors seek "fairness" opinions from their financial advisers, which is more customary practice in other jurisdictions.

(B) Director responsibility for compliance with the Listing Principles

The FCA has introduced a requirement for all listing categories that the board confirm on an IPO that the company has taken reasonable steps to establish adequate procedures, systems, and controls to enable it to comply with its obligations arising from the listing rules, disclosure requirements, transparency rules and corporate governance rules which is effectively a confirmation that the company can comply with Listing Principle 1 (LP 1). Directors on an IPO (particularly non-executive directors) will need to ensure that they are comfortable giving the confirmation direct to the FCA and that all necessary due diligence has been done to be satisfied this is the case.

Whilst the confirmation does not really change the directors' obligations, the requirement to sign a document and provide it directly to the FCA will undoubtedly focus directors' minds.

The FCA has also now included guidance to LP 1 stating that directors should take reasonable steps to ensure that adequate governance arrangements are established and maintained at all times to enable the company to comply with LP 1. As stated above, LP 1 applies to all listed companies regardless of category. The new guidance together with the new board confirmation confirms the messaging from the FCA in the consultation papers that the FCA is placing greater emphasis on directors taking collective responsibility for compliance with the

rules relating to procedures, systems and controls. Directors should also note new guidance that the systems and controls requirement means that a company should be able to explain to the FCA where information is held and how it can be accessed and how it can access it easily from the UK information that may be held outside the UK. Again, directors may wish to undertake further work, either internally or from external advisers, to feel comfortable that this is the case (which is the FCA's intention), especially as sponsors will play a more limited role in transactions by listed companies.

5. What do the new rules mean for investors?

As mentioned above, investors will no longer receive a vote on significant transactions (other than reverse takeovers) or RPTs. This vote was helpful not so much because shareholders voted down transactions, but because it served as a check to companies when planning a major acquisition – a board had to be confident that they could bring their shareholders along with them before presenting shareholders with a resolution on a transaction.

The importance of ensuring shareholder support for transactions has not gone unnoticed and the FCA's Disclosure Guidance has been amended to make it clearer that selective disclosure of inside information to major shareholders ahead of announcement of a transaction is permitted. Whilst this is not such a powerful weapon in an investor's armoury, it does provide the ability for investors to put forward views ahead of a company committing itself to a major acquisition or disposal.

As companies now have more flexibility in both the nature of their business and their governance (e.g., around controlling shareholders and DCSSs), investors will need to give more attention to disclosure to understand the companies they invest in. We anticipate that the new regime may lead to more negotiation between IPO candidates and investors as there is now less of a "play book" of what is, and what is not, acceptable by way of governance and capital structure for a listed company. For example, investors may dictate what is acceptable in terms of enhanced voting rights and a relationship agreement between the company and any controlling shareholder on an IPO even if the new rules provide for more flexibility.

6. What do the new rules mean for sponsors?

(A) Sponsor services

Companies listing on the commercial companies category, CEIF and shell company categories will require a sponsor on IPO and at certain times once listed. The sponsor regime will not apply to companies on the new international commercial companies secondary listing category or the transition category.

The role of sponsor on an IPO will remain broadly similar to that under the current premium listing regime, save that there may be an additional degree of complexity for sponsors when undertaking due diligence regarding eligibility and ability to comply with ongoing requirements given the diverse types of company that are eligible to list.

The "touch points" for when a sponsor will be required post listing will be reduced given the changes to the significant transaction and RPT regimes. If requested by a company, sponsors will still be required to provide advice on the class tests and modifications to and waivers from the Listing Rules (but it is not mandatory to seek sponsor advice unless there is a possibility of a reverse takeover). Sponsors will also be required where a company seeks to transfer between the commercial companies, shell company and CEIF categories or "step up" to such categories from the transition category.

	Current sponsor regime	Proposed sponsor regime
IPOs		
Commercial companies / CEIFs	Sponsor declaration	Sponsor declaration
International commercial *companies secondary listing*	X	X
Shell companies	Sponsor declaration (if premium listed)	Sponsor declaration
Transactions (*Commercial companies, CEIFs and shell companies)*		
Class 1 transactions / significant transactions	Guidance on application of class tests; sponsor declaration	Guidance on application of class tests (if requested)
Reverse takeovers	Sponsor declaration	Sponsor declaration
RPTs	Guidance on application of class tests; "Fair and reasonable" advice	Guidance on application of class tests (if requested); "Fair and reasonable" advice
Further issues (with a prospectus)	Sponsor declaration	Sponsor declaration
Refinancing and reconstructions	Sponsor declaration	X
Share buy-backs with circular	Sponsor declaration	X
Transfer of listing category	Sponsor declaration (if to premium or between premium segments)	Sponsor declaration (if to commercial companies, CEIFs, shell companies categories)

(B) Sponsor competency

As a result of the proposed changes, there will be less sponsor transactions so the FCA has already made amendments to the competency regime to enable it, when assessing a firm's ability to act as sponsor, to consider a firm's experience of other types of transaction that do not require a sponsor declaration, such as general corporate advisory work and acting as nominated adviser for AIM companies with a market capitalisation over £30 million. This will require a more case by case assessment of competence by the FCA.

(C) Record keeping, specialist due diligence and sponsor reviews

At the same time as publication of PS 24/6, the FCA published Primary Market Bulletin 50 (PMB 50), two new technical notes and a revised technical note on record keeping, all of which are subject to consultation. The consultation closes on 5 September 2024. The two new technical notes relate to specialist due diligence (TN 722.1) and sponsor reviews by the FCA (TN 723.1).

The record keeping technical note (TN 717.2) has been amended to add a Q&A section at the back which covers the following:

- contents of a sponsor file
- areas where records have historically not been sufficient
- what to record when satisfied with a third-party report
- how to demonstrate adequate supervision of sponsor team
- supplemental notes added after the event
- which emails to keep
- level of detail required in file notes/ minutes
- what to do when you have previous experience of the company
- what to do if a company is not co-operative
- how to respond and act upon a sponsor review.

The FCA notes that it may update the Q&A in due course, but it is already a helpful resource for sponsors in terms of giving an indication of the FCA's approach to record keeping both on specific topics and more generally.

The specialist due diligence technical note is particularly helpful for sponsors in the light of

feedback from sponsors on new areas of sponsor diligence such as TCFD and diversity disclosures. Key points include the following:

- the sponsor team should challenge itself as well as appoint the third-party expert
- specialist reports are not always required
- the sponsor should consider the capacity and capability of the expert carefully
- the scope of work should be reviewed carefully, and the sponsor should review, comment, and challenge the report (if appropriate)
- the sponsor should discuss with the report with the company's board (where relevant)
- bring down should be considered if there is a gap between the date of the report and the date of the sponsor assurance
- records should be kept on all the above

PMB 50 notes that the FCA does not expect to see third party reports where a sponsor can reach its own opinion without such a report and that sponsors are not expected to be experts in every specialist discipline, both of which are useful confirmations although we would not expect to see market practice changing in terms of the types of report that are commissioned by sponsors as a result of these confirmations from the FCA. The FCA has also amended guidance in what is now UKLR 24.4.27G on record keeping to refer to the reader of a sponsor file having a basic understanding of the transaction being sufficient rather than the reader having no specific knowledge of the transaction which seeks to limit the records required to be kept by the sponsor. The FCA has also stated that it will write to a company at the outset of an IPO to explain the sponsor's role to assist the sponsor in performing its role.

The new draft technical note on sponsor reviews covers areas such as why the FCA conducts sponsor reviews, what it looks for and how it makes its assessments as well as its expectations from sponsors in response to reviews. In our view, it will be a useful resource for sponsors going forward.

(D) Streamlined transfer process

The FCA had previously published Primary Market Bulletin 48 which included a draft technical note in relation to sponsor services in connection with a modified transfer of listing (TN 721.1) e.g. on a move from transaction to commercial companies categories. The technical note sets out the FCA's expectations of sponsors in such circumstances as follows:

- the sponsor must confirm that it has not identified any adverse information that would lead it to conclude that the company would not be able to comply with its obligations under the UKLRs, Disclosure Requirements and Transparency Rules
- there is no requirement to undertake a broader assessment of the company's procedures, systems or controls
- there is a rebuttable presumption that the company is complying with UK MAR and other listing obligations that are already applicable
- if the sponsor discovers any issue through its due diligence with wider breaches, it must consider whether to do further due diligence
- the sponsor must consider discussing adverse findings with the FCA.

7. Concluding remarks

We now have a final set of the UK's listing rules. Companies, directors, investors and advisers now know what it takes to be admitted to the London's Official List and can start to plan for the future.

But are the new rules fit for purpose? Do they make London "match fit" and ready to compete on an international stage?

The rules are better than what went before, but they are not perfect. In fairness, it was always going to be challenging to satisfy everyone, from those who wanted to liberate listed companies from regulatory burden to those who wanted to preserve London's reputation as a "gold plated" regime with more inbuilt investor protections than other international markets.

The end result is not always ideologically coherent, but at least we all know where we stand. The London markets are now open to a wider range of companies and the continuing obligations should make London listed companies more competitive in international M&A.

We await the next stage of the reforms, the prospectus consultation later in H2 2024, with anticipation.

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