UKLA Technical Note

Aggregating transactions

Ref: UKLA / TN / 307.1

LR 10.2.10

The aggregation rules are a key component in the system of shareholder protections provided in LR 10. These safeguards are necessary because of the impact that acquisitions and disposals can have on a company.

LR 10 requires transactions to be classified according to relative size and sets out rules requiring disclosure appropriate to the size of the deal. Shareholder approval is required for substantial transactions. Where the transaction is classified as a reverse takeover, the enlarged entity emerging from the transaction is effectively a different business and is treated as a new applicant for listing.

LR 10.2.10R states that, when classifying a transaction under LR 10, the UKLA must require other transactions completed in the previous 12 months to be aggregated with the one being classified in the circumstances set out in the rule (see below). This could mean that the current transaction being classified will be treated as a class 1 transaction, for example, even though on its own it is relatively small.

Normally, as the rules make clear, the UKLA will only aggregate transactions in defined circumstances. These circumstances are set out in LR 10.2.10R(1)(a)-(c). However, LR 10.2.11(G) provides the UKLA with scope to apply aggregation principles if necessary.

The UKLA would typically employ these where they had concerns that an issuer was structuring a transaction in such a way as to avoid shareholder approval under LR 10.

The aggregation rules are necessary to close possible loopholes and anomalies. Without them, transactions that would otherwise be significant enough to require shareholder approval could be split into a series of smaller transactions. This scenario is addressed in LR 10.2.10R(1)(a) and (b). Where these circumstances apply, the transactions are required to be aggregated for classification purposes.

LR 10.2.10R(1)(c) addresses a slightly different anomaly. Without the aggregation rules, an acquisition of a substantial new business which leads to involvement in a significant new business activity would be subject to shareholder approval, whereas if the new business was assembled through a series of smaller third party acquisitions with the same effect, it would not. LR 10.2.10R(1)(c) applies in such a case.

Similarly, without the aggregation rules, a very substantial acquisition of an unlisted business or assets might be classified a reverse takeover, whereas a series of smaller transactions might not, even though the business emerging from these deals is effectively a different business. Again, LR 10.2.10R(1)(c) would apply.

How do we aggregate transactions?

The requirement to carry out the class tests crystallises at the point at which the transaction is announced. As such, the impact on the issuer in relation to the market capitalisation test is measured at that point in time. LR 10 Annex 1 sets out the source figures to be used in classifying transactions.

When aggregating transactions, issuers should add together the class test percentages of the earlier transaction (as classified at that time) with the class test percentages of the subsequent transaction. The combined percentage will indicate the aggregated classification of the transactions.

For example, Company A enters into and completes a transaction in January and a second transaction in May of the same year. Both are in relation to the same business and are aggregated under LR 10.2.10R(1)(b). The class test results are:

	January	**May**	**Aggregated results**
Consideration to market cap	15%	15%	30%
Profits test	10%	4%	14%
Gross assets	13%	7%	20%

On the above results the second transaction would be treated as a class 1 transaction requiring shareholder approval under LR 10.2.10R(3), as the aggregated results are greater than 25% for one of the three tests.

It would not be appropriate to recalculate the class test results for the January transaction in May, as we consider that the class test regime seeks to measure the impact of a transaction on an issuer. This impact crystallises at the time a transaction is entered into, and is not affected by subsequent events such as a movement in an issuer's share price.