Mr Edwin Schooling Latter
Head of Markets Policy
Financial Conduct Authority
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Canary Wharf
London, E14 5HS

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Dear Mr Schooling Latter,

Listing Authority Advisory Panel (LAAP) and Markets Practitioner Panel (MPP) joint formal response to the FCA's Consultation Paper (CP) 17/21 that proposes to create a new premium listing category for sovereign-controlled companies

The LAAP and MPP are independent senior practitioner panels that advise the FCA on primary market and broader wholesale financial market policy issues and regulation proposals, respectively. We welcome this opportunity to support the FCA's consultation on its proposals to create a new premium listing category for sovereign-controlled companies.

Please find below our joint response to the consultation, which does not seek to answer the specific questions raised in CP17/21 but rather to set out some thoughts and observations in response to it and to assess the proposals on their merits without reference to any wider context within which they may sit.

Summary

We consider the proposals set out in CP17/21 to be a sensible and pragmatic evolution of London's diverse primary market environment that address a class of company and shareholder for whom the current rules are not particularly well suited. The proposals combine sense and pragmatism with a parallel adherence to high regulatory standards and additional requirements suitable for a premium listing. Prospective issuers using the new listing category will need to submit to a rigorous set of listing rules overseen by a highly experienced and trusted regulator. Investors will be able to evaluate fully the investment opportunity before deciding whether or not to invest.

Thoughts and observations

CP17/21 consults on targeted proposals to make the listing regime work better for companies controlled by a shareholder that is a sovereign country. It sits within the context of the discussion started by the FCA's Discussion Paper 17/2 in relation to the role of listed primary markets in the broader capital markets landscape and the structure of the UK listing regime in supporting that role.

We note that one of the factors that has made London such an attractive place to list is the diverse primary market environment that it has developed, which has meant that a wide range of issuers and investors are catered for. The environment has evolved consistently over the years in order to maintain and advance London's international position and in order to keep it 'fit for purpose'.

We note that there are already three premium listing categories – namely for commercial companies, closed ended investment funds and open ended investment companies – reflecting the different nature of issuers that are currently able to list on the premium listing segment. There are also several concessionary routes to a premium listing – namely for mineral companies and scientific research-based companies as well as potentially property companies – plus there are others that have existed in the past, for example in relation to innovative high

growth companies. The various categories and concessionary routes reflect the different types of issuer that are able to list in London and the flexibility and thoughtful nature of the regime. At a high level, the proposals in CP17/21 can be seen as a continuation of the development process of the London markets, aimed at ensuring that they continue to provide a primary market environment that caters for as wide a range of issuers as possible, alongside appropriate regulatory safeguards.

At present, in order to list in London, sovereign-controlled companies would need to be considered as commercial companies at the point of listing. Given the nature of such companies and their links to and reasons for being owned by a sovereign country, it must be unlikely that they will be able to - or perhaps should be expected to - make that transition fully prior to any listing and also before they know for certain that the listing will proceed. It may be presumed that it would be equally unappealing for the sovereign country that is the pre-IPO shareholder for them to convert fully before the listing is unconditional.

If that premise is combined with the presumption that London, as a diverse, mature and leading listing venue, should be able to offer sovereign countries the ability to list and potentially gradually exit companies that they own, the proposal to create a separate premium listing category for such entities has sense to it as they are legitimately different entities to mainstream commercial companies. Nearly all privatisations include a local listing to afford local citizens and investors a chance to participate. This need to respect local incorporation and offering requirements is another condition that sovereign-controlled companies face in their journey to becoming a fully commercial company.

Seen in that light, the proposals can be seen as London offering the relevant sovereign-controlled company a route by which to transition to being a fully commercial company, while at the same time keeping a sensible regime in place that, despite the proposed rule relaxations, still offers more protection for investors than any other European exchange, which have directive minimum standards. Other listing destinations around the world offer concessions in regulation (such as the US Foreign Private Issuer designation) or listing rules (such as the New York Stock Exchange controlled company rules). As such, the new category may actually increase the number of listed companies applying rules that exceed the directive minimum standards.

It is worth noting that the proposed new premium listing category will apply all of Chapter 6 of the Listing Rules except for the controlling shareholder and related party rules in relation to the sovereign state. Chapter 6 imposes many important requirements over and above the directive minimum standards including a three year track record, the so-called "75% rule", the need for an independent business, the working capital statement and pre-emption (if not required by local law). The new category would also require the appointment of a sponsor pursuant to Chapter 8 of the Listing Rules as well as compliance with the continuing obligations set out in Chapter 9 of the Listing Rules – including periodic financial reporting and complying or explaining in relation to the UK Corporate Governance Code.

In addition, investors are likely to have complete discretion, having read the prospectus and conducted their own due diligence as appropriate, to decide whether to invest or not given that FTSE Russell have stated that there will be no impact on the eligibility criteria for inclusion in the FTSE UK index series. As such, a 50% free float would be required for an international company looking to list in the new category, which is unusual even if the issuer in question is a mainstream commercial company. A sovereign-controlled company is unlikely to reincorporate away from its country of origin or to see its sovereign country shareholder sell more than 49% in the medium term. Country classification and the development of trading volume in the home and international listing venue are additional factors that may inhibit indexation. Concern over indexation forcing investor participation in an IPO is in our view unfounded.

Furthermore, institutional investors are collectively experienced at pricing sovereign risk. Sovereign risk assessments are well understood and widely reported, with investors basing

investment decisions on an analysis of all relevant risk factors. In that context, it is worth noting that sovereign states can of course carry out a range of actions that ordinary private shareholders that bring a company to listing are not able to, including raising or lowering taxes, granting or revoking licences and introducing or repealing legislation that affects business operating conditions.

Seen against that backdrop, the related party and controlling shareholder regimes are not wholly relevant in the context of such shareholders and, indeed, could potentially be seen as a misrepresentation to investors of the protections afforded by the Listing Rules. As such, investors in sovereign-controlled companies may well actually be better served by full disclosure and transparency at IPO and on an ongoing basis that enables them to make an accurate sovereign risk assessment. For example, disclosure under International Accounting Standards and the Market Abuse Regulation would continue to apply, including in relation to related party transactions.

The proposals are also sensible in that they propose a separate and readily identifiable new premium listing category rather than the FCA taking the alternative possible approach of applying waivers to the existing premium listing regime for sovereign-controlled companies.

We look forward to seeing the outputs of this consultation in due course.

Yours sincerely,

Annemarie Durbin

Chair, FCA Listing Authority Advisory Panel

Yours sincerely,

John Trundle

Chair, FCA Markets Practitioner Panel