

Open-ended Investment Companies – Proposals for a more proportionate Listing regime

Consultation Paper

CP20/5**

March 2020

How to respond

We are asking for comments on this Consultation Paper (CP) by 9 June 2020

You can send them to us using the form on our website at: www.fca.org.uk/cp20-05-response-form

Or in writing to:

Jayne Williams or Babatunde Carew
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Email:

cp20-05@fca.org.uk

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1 Summary

Why we are consulting

- 1.1** In February 2017, we published a [Discussion Paper on the Effectiveness of Primary Markets \(DP\)](#). One of the topics covered was exchange-traded funds (ETFs) and whether the premium-listing obligations which apply to open-ended investment companies (OEICs), which are the legal form that ETFs usually take, should be dis-applied and OEICs should be listed in the standard listing segment.
- 1.2** The standard-listing regime is based on minimum EU directive standards and primarily focusses on transparency. The premium-listing regime sets requirements which exceed standard listing, including greater transparency and rights for shareholders.
- 1.3** Respondents to our DP agreed that there is limited rationale for the premium listing of OEICs and that, given the nature of their shares, a standard listing of these companies' units might be more appropriate. Therefore, in the [Feedback Statement](#) published in October 2017 we committed to prepare rules for consultation for the standard-listing of OEICs. This commitment was also included in the 2019/20 [Business Plan](#).
- 1.4** This consultation sets out how we propose to make the necessary changes to the Listing Rules to create a more proportionate listing regime for OEICs in standard listing, whilst ensuring existing investor protections are maintained.

Who this applies to

- 1.5** This consultation paper will be of interest to:
- investors, including retail investors, who own shares in premium-listed OEICs or are considering investing in them
 - OEICs that already have a premium listing of their shares or are considering applying to the FCA for a listing
 - fund managers of OEICs
 - advisors to the above, including FCA-approved sponsor firms

Context

- 1.6** Under our rules to be eligible for listing, OEICs must be authorised or recognised collective investment schemes (for example Undertakings for the Collective Investment in Transferable Securities or "UCITS") under the FSMA regimes for funds. These authorisation and recognition processes require funds to meet appropriate standards so they can be promoted to the general public.

- 1.7** The current listing regime for OEICs was drawn up in 2007. At that time, the Listing Rules were tailored to account for the underlying funds regulation. However, more recent industry feedback has indicated further refinement to the Listing Rules would make our listing regime more proportionate and operate more effectively: a significant proportion of the listing requirements for OEICs impose a layer of regulation on top of the funds regulation that already applies to these issuers and their fund managers through other rules. Consequently, these parts of the Listing Rules do not offer any appreciable value to investors, but they impose additional costs on issuers.

What we want to change

- 1.8** We propose to change the Listing Rules applicable to OEICs to dis-apply or amend existing requirements that:
- are disproportionate because they prescribe transparency and safeguards, including rights to shareholders, that are already present in underlying funds regimes under which the OEIC is already authorised or recognised; or
 - are not relevant or are inoperable for OEICs because they don't take account of the specific features of OEICs' business models or structures.
- 1.9** We also want to make consequential changes which will align our listing requirements for OEICs more closely with standard listing for shares in LR14 Standard listing (shares).

Outcome we are seeking

- 1.10** Our proposed changes to Listing Rules applicable to OEICs are intended to ensure their obligations in the Listing Rules are more proportionate and more tailored to OEICs' business models and structures.

Next steps

- 1.11** We want to know what you think of our proposals. Please send us your feedback by 9 June 2020. You can do this using the form on our website or by writing to the address on page 2. We will consider all the feedback received before publishing final rules.

2 The wider context

- 2.1** In 2017, we published a Discussion Paper (DP 17/02) on the effectiveness of UK primary markets. One topic on which we sought views was ETFs that choose to have an FCA listing.¹ We asked whether the premium listing obligations for OEICs, which are the legal form that ETFs usually take, should be dis-applied and whether these OEICs should instead be listed in the Standard segment.
- 2.2** Stakeholders noted that underlying funds regulation that applies to authorised funds and their managers (for example rules which implement the UCITS Directive), offer significant protections for investors, including retail investors. The feedback suggested that the main source of investor confidence in ETFs comes from the rules for funds rather than the Listing Rules. In addition, stakeholders noted that investors relied on funds documentation such as a UCITS prospectus, rather than the listing particulars currently required under the Listing Rules.
- 2.3** Therefore, stakeholders stated that the current Listing Rules impose an unnecessary, additional layer of regulation that does not serve any valuable purpose for investors.
- 2.4** When we designed the current form of the listing regime, we recognised this by setting the eligibility condition that requires any OEIC applying to be listed to be either authorised or recognised by the FCA, and imposing relatively few additional qualitative criteria about how the fund is managed.
- 2.5** Feedback from industry, however, has since indicated that we could improve on this approach, implying that standard listing would be more appropriate.
- 2.6** For example, certain provisions set out in the listing category for OEICs (LR 16) were originally copied across from the listing requirements for commercial companies and closed-ended investment funds. These were not specifically designed for OEICs. Some are not relevant to this structure, or are simply inoperable for it. They include:
- requirements for transaction types that are not typically undertaken by OEICs
 - protections for existing shareholders against dilution from further issuances – these are not relevant for issuers with a variable share capital
 - obligations on issuers to seek prior shareholder approval for certain transactions or corporate actions which apply at OEIC level. These rules do not take account of the OEIC's 'umbrella' structure where different sub-funds are created to provide investments, via separate classes of share, into distinct pools of assets
- 2.7** Taking this feedback into account, we are now consulting on recalibrating the listing regime for OEICs to dis-apply or amend existing requirements that are either:
- disproportionate because they offer transparency and safeguards, including rights for shareholders, which overlay those which are already present in the underlying funds regimes under which the OEIC is already authorised or recognised; or

¹ Most OEICs that are available to investors in the UK are not FCA-listed and not impacted by our proposals. The ETFs that are premium listed are a subset of those available to investors on the Main Market of the London Stock Exchange.

- not relevant and/or inoperable for OEICs because they do not take account of the specific features of OEICs' business models or corporate structures.

2.8 We are also proposing to make some further changes to the Listing Rules to align the listing regime for OEICs more closely with standard listing for shares in LR14 to provide consistency within the standard listing regime. We are not proposing to amend the eligibility criteria for listed OEICs.

2.9 The consequence of the proposed changes would be that all premium listing requirements would be dis-applied for OEICs. We would therefore propose to relabel the listing segment for OEICs as standard listing.

2.10 We further propose that all existing ETF securities currently listed under the Chapter 16 regime will be subject to the new regime following the introduction of the amended rules.

2.11 Our changes will also result in a more streamlined and proportionate listing applications process for OEICs.

2.12 We are not proposing any changes to:

- the underlying regulation for collective investment schemes or fund managers (as set out in the FCA's Handbook and directly applicable EU regulations)
- our statutory authorisation or recognition processes
- the Listing Rule requirement that an open-ended fund must be FCA authorised or recognised to be listed

The safeguards that these offer to investors will not be impacted by our proposals.

2.13 Our proposed change to standard listing does not in our view imply any change in the quality of listed OEICs or future applicants, nor should it be read as such. Instead, the standard labelling will reflect that the rules for OEICs will be more closely aligned with those for other standard-listed securities.

How it links to our objectives

Make markets work well

2.14 Currently, a significant proportion of the listing requirements for OEICs impose a layer of regulation on top of the funds regulation that already applies to these issuers and their fund managers through other rules. Consequently, these parts of the Listing Rules do not offer any appreciable value to investors but they impose additional costs on issuers.

2.15 The changes we are proposing to the listing regime for OEICs are intended to ensure that our requirements are more proportionate and better tailored to them. This should reduce unnecessary regulation, make the UK listing requirements less complex for OEICs to meet and for their investors to understand, and make these markets work better.

Wider effects of this consultation

- 2.16** Our proposals will impact the subset of ETFs available to UK investors that either:
- already have a premium listing under LR 16; or
 - choose to apply to the FCA for listing in the future.
- 2.17** Other routes for OEICs to be admitted to the LSE's Main Market² or over-the-counter (OTC) markets will not be affected.

What we are doing

- 2.18** We are consulting on changes to the Listing Rules. This will include proposals for:
- changes to the Listing Rules for OEICs currently set out in Chapter 16 of the sourcebook (to be incorporated in a new Chapter 16A) to align more closely with the standard listing segment, and some consequential changes
 - changes to other Listing Rules provisions that also apply to OEICs. These include the listing applications process and the rules for transferring to a different listing category or cancelling a listing
- 2.19** To ensure consistency and clarity on our Listing Rules requirements for OEICs, we are proposing that all OEICs that already have a premium listing will automatically become standard listed under the amended provisions in new LR 16A when the final rules come into force.

Equality and diversity considerations

- 2.20** We have considered the equality and diversity issues that may arise from our proposals.
- 2.21** Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.
- 2.22** In the meantime, we welcome your input to this consultation on this.

² ETF shares that are admitted to the LSE's Main market and have a standard listing (under legacy transitional provisions) will remain standard listed under LR14. ETF shares that are admitted to the LSE's Main Market that are admitted to trading, or are 'listed' in an overseas jurisdiction are not required by the LSE to have an additional UK listing.

3 Creating a more proportionate listing regime for open-ended investment companies

Objectives and approach

3.1 We are consulting on changes to the Listing Rules to offer a more proportionate listing regime for OEICs. We describe these proposals in more detail below. Our approach will result in a listing regime for OEICs that:

- remains available only to OEICs that are already FCA authorised or recognised under FSMA
- is more closely aligned with the requirements in the existing standard listing category for shares, rather than the premium listing categories
- does not impose transparency requirements and safeguards, including rights for shareholders, already present in underlying funds regulation
- does not impose requirements that are irrelevant or inoperable for OEICs
- has a streamlined listing applications process without the requirement to publish FCA-approved Listing Particulars
- does not require the appointment of an FCA-approved sponsor to support the application for listing and at key points of the life of the OEIC as a listed company

3.2 For OEICs that already have a premium listing, we propose to apply the amended Listing Rules provisions automatically on the date the new rules come into force without requiring them to take further action. This should provide transparency and certainty to the market on our listing requirements for these issuers. OEICs that already have a standard listing under LR 14 (under historical transitional provisions) are not affected by our proposals.

Q1: Do you agree with our objectives and approach to creating a more proportionate listing regime for OEICs? Are there other criteria we should be applying?

Premium-listing governance and transparency requirements

3.3 The following are the main governance and transparency requirements which apply to OEICs in premium listing that we propose to dis-apply.

Operational control over the OEIC's business

3.4 An OEIC is required to exercise 'operational control' over the business it carries on as its main activity at all times. This rule has been designed for commercial companies (which are premium listed under LR chapter 6 (LR6.8.1R to LR6.8.2R (via LR16.2.1R))) rather than a fund which invests in other businesses. Our Listing Rules requirements

are potentially inoperable because the factors which indicate non-compliance (LR6.6.3G) do not take into account the OEIC's business model.

Q2: Do you agree that we should dis-apply the additional Listing Rules requirement for an OEIC to exercise operational control over the business it carries on as its main activity?

The related party rules

- 3.5** The 'related party' rules (mainly cross-referenced from LR 11) place significant transparency and governance requirements on issuers. They aim to prevent related parties (certain parties connected to the issuer specified in LR11.1.4R) using their influence to extract value from the company (or creating the impression of doing so) to the detriment of its shareholders. For larger transactions with related parties, the issuer must obtain prior shareholder approval using an FCA-approved circular detailing the proposal. The issuer must provide a statement by the board that the transaction is fair and reasonable so far as its shareholders are concerned and has been so advised by an FCA-approved sponsor.
- 3.6** These rules offer valuable safeguards to investors in commercial companies and closed-ended investment funds. However, for OEICs other rules already apply to ensure that conflicts of interest are managed properly, which should address this risk. In particular, rules implementing the UCITS Directive (which apply to all OEICs that are currently listed) contain provisions on conflicts of interest that are designed to reduce the risk of a related party taking away value from investors. Also, the investment managers of UK OEICs that are FCA authorised are subject to either the UCITS-derived conflicts rules, or similar rules deriving from the AIFMD that apply to AIFs. Given these safeguards, we consider it disproportionate to overlay the 'related party' rules to listed OEICs.
- 3.7** In addition, the 'fair and reasonable' statement has not been designed for an issuer with multiple share classes representing distinct sub-funds.
- 3.8** In practice, we have not observed OEICs undertaking transactions that would be classed as related party transactions under the Listing Rules over the last 10 years and understand they are unlikely to undertake such transactions.

Q3: Do you agree we should dis-apply the related party rules for OEICs?

Requirements for further share issuances

- 3.9** Premium listing imposes governance and transparency obligations in relation to a wide range of share issuance transactions (mainly LR 9.5) including:
- employee share schemes and long-term incentive plans
 - discounted option arrangements
 - rights issues
 - open offers
 - vendor consideration placings
 - share issuances at a discounted price
 - offers for sale or subscription

- 3.10** These rules address shareholder concerns about dilution which are intrinsic to an investment in a commercial company or a closed-ended investment fund. However, OEICs are unlikely to issue shares in this way. Similar concerns about dilution do not arise because OEICs have a variable share capital.

Q4: Do you agree that we should dis-apply the rules on further share issuances for OEICs?

Interactions with shareholders – voting rights

- 3.11** Under existing Listing Rules for issuers with a premium listing, various transactions or corporate actions require prior shareholder approval. These include related party transactions and further share issuances as discussed above. Issuers are also required to obtain prior shareholder approval if they wish to cancel their listing (LR 5.2.5R) or transfer into a different listing segment (LR 5.4A).
- 3.12** However, voting at general meetings is not a common way in which shareholders in OEICs typically interact with the issuer. Investors in OEICs expect to be kept up to date on the performance of the fund and the price of the shares, and will use this information in deciding whether to remain invested or to sell out in the secondary market.
- 3.13** As drafted, these voting rules in the Listing Rules are also inoperable for OEICs because they do not take account of their 'umbrella' share structure with separate listed share classes for distinct sub-funds. Investors in a sub-fund could be asked to vote on matters relating to another sub-fund which they have no interest in.
- 3.14** We therefore propose to remove all Listing Rules which require the OEIC to obtain prior shareholder approval. This would apply to the rules on cancelling listing or transferring into a different listing category. We would note that, consistent with the existing requirements for standard listed shares in LR 14, the issuer would still be required to provide 20 business days' notice to the market of its intention to cancel the listing of a sub-fund or to transfer to a different listing category.
- 3.15** The alternative would be to adapt the relevant shareholder voting requirements in the Listing Rules so that, for OEICs, they could apply separately to the different listed sub-funds. We have not proposed this as it would be inconsistent with our existing approach to shareholder voting in the standard-listing regime.
- 3.16** We also propose to remove other premium listing requirements that relate to proxy voting at shareholder meetings (LR 9.3.6R and LR 9.3.7R). In the UK, underlying funds regulation for FCA authorised OEICs already sets out tailored requirements for shareholder voting. OEICs that are incorporated overseas will be subject to local requirements. We consider it disproportionate to overlay this with additional obligations on the narrow subject of proxy voting.

Q5: Do you agree that we should remove the various premium listing requirements which impose various additional voting requirements on OEICs in their interactions with shareholders?

Q6: If you disagree that we should remove these voting requirements, what should we retain (or adapt) and why?

Large shareholders

- 3.17** Certain premium Listing Rules relate to identifying, or offering transparency on, an issuer's large shareholders. These rules are largely inoperable for OEICs which have a variable share capital.
- 3.18** For this reason, we propose to remove the requirement that the OEIC must notify via a Regulated Information Service (RIS) the interests on any single person or entity that exceeds 10% of the issued shares in any class of share, so far as they are known to the OEIC (LR16.4.3R).
- 3.19** We also propose to remove the restriction on how UK-incorporated issuers with a premium listing are able to exercise their powers in section 793 of the Companies Act 2006 (LR 9.3.9R). This enables issuers to obtain information on who is building a stake in their shares in the context of a potential takeover. Stake-building in OEIC shares is unlikely to concern OEICs.

Q7: Do you agree that we should remove the provisions on identification and transparency of large shareholders?

Notifications to the market via an RIS

- 3.20** Premium listing imposes requirements to ensure that certain ad-hoc matters are notified to the market via an RIS.
- 3.21** Many of these requirements are likely to be irrelevant to an OEIC and inoperable. They are not bespoke to the specific business models of OEICs and the obligations for the provision on information to shareholders in underlying funds regulation. For example, announcements on how they issue and redeem shares, how they provide information to shareholders on the performance of the fund and pay returns. We are therefore proposing to remove a substantial number of these obligations. We would not expect this to create an information gap. In addition, information may be disclosable to the market under MAR. We consider it disproportionate to overlay existing requirements with listing requirements which would be either duplicative or not relevant for OEICs.
- 3.22** This would also align the new standard listing segment for OEICs more closely with standard listing for shares in LR chapter 14.
- 3.23** However, the Listing Rules will continue to require OEICs to ensure that the information that they are required to file with the FCA under the Listing Rules, and resolutions approved at an extra-ordinary general meeting of shareholders, are also notified to the market via an RIS (per LR 14.3.6R).

Q8: Do you agree that we should remove the detailed notification requirements from the LR for OEICs?

Q9: If you disagree, what should we retain from premium listing (or alternatively adapt for OEICs) to ensure that information is notified to the market and why?

Disclosures in annual financial reports

- 3.24** We are proposing to reduce the extensive additional information that is currently required in the OEIC's annual financial report (set out in LR 9.8 excluding LR 9.8.4R(14) as specified in LR 16.4.1R(1)). We consider that much of this is a disproportionate overlay to the information requirements in underlying regulation that already applies to OEICs or is inoperable for them because it does not take account of their specific business models.
- 3.25** These Listing Rules cover areas such as profit forecasts, long-term incentive schemes for directors, non-pro-rata share issuances, share buy-backs not conducted via a tender offer, and services provided by a controlling shareholder.
- 3.26** LR 9.8.6R requires information to be included for UK incorporated issuers in relation to the interests of directors or persons disclosing managerial responsibilities. We are proposing to remove the requirements for:
- a statement setting out the interests of directors (or their connected persons) in the issuer that are disclosable under article 19 MAR, including changes in these interests or a confirmation of no changes; and
 - a statement showing the interests of persons disclosing managerial responsibilities as disclosed to the issuer under DTR 5.
- 3.27** Given that OEICs already notify this information to the market (under MAR or DTR), it is already available to investors. The further disclosure in the annual report is an additional burden on OEICs that is not included in standard listing for shares in LR chapter 14. Removing these requirements will align the standard listing categories for shares more closely.
- 3.28** We are also proposing to remove for OEICs the requirements that issuers with a premium listing state how they have applied the Principles of the UK Corporate Governance Code (Code) (LR 9.8.6R(5)) and whether they comply with (or depart from) the underlying provisions (LR 9.8.6R(6)). Several further disclosure requirements follow on from this (for example LR 9.8.6R(3)), some of which the issuer is required to ensure its auditor reviews (LR 9.8.10R).
- 3.29** The Code is published by the Financial Reporting Council and sets out standards of best practice in corporate governance. It has not been designed for OEICs who, in any event, are required to follow prescriptive rules in applicable funds regulation on how they operate. We note that premium listed OEICs have disclosed that various Code provisions are not appropriate or are irrelevant to them, including on the composition of the board, committees, the appointment and reappointment of directors, and their method for 'workforce' engagement where they have no employees.
- 3.30** We are therefore proposing to remove the obligation for OEICs to disclose how they have applied the principles of the Code and other associated disclosure requirements in LR 9.8.
- 3.31** However, listed OEICs who are incorporated in the EEA will remain subject to other disclosure requirements on corporate governance statements under national rules that implement the Accounting Directive. This is DTR 7.2 in the UK. Because we are

proposing to dis-apply the premium listing requirements on the Code, we propose to apply the rule in LR 14.3.24R which creates a level playing field between EEA and non-EEA incorporated issuers with a standard listing of shares with respect to DTR 7.2.

Q10: Do you agree with our proposals to reduce the additional disclosure requirements in annual financial reports for OEICs?

Q11: If you disagree, which items should we retain for disclosure in annual financial reports and why?

Q12: Do you agree with our proposal in relation to DTR7.2 (Corporate Governance)?

Listing principles

3.32 We propose that OEICs should continue to be subject to the two Listing Principles in LR 7.2.1R. Listing Principle 1 requires the listed company to take reasonable steps to establish and maintain adequate procedures, systems and controls to enable it to comply with its obligations. Listing Principle 2 requires the listed company to deal with the FCA in an open and co-operative manner.

3.33 Consistent with the standard listing requirements for shares in LR 14, we propose that OEICs should no longer be subject to the further Premium Listing Principles in LR 7.2.1AR. These principles are a key differentiating factor between premium and standard listing. They impose our high-level expectations on how a premium listed company is governed and set out shareholder rights which are important features of premium listing. In summary, they require the issuer:

- to take reasonable steps to ensure its directors understand their responsibilities and obligations
- to act with integrity toward the holders and potential holders of its listed securities
- to provide equal voting rights to all shareholders in a class
- to provide that the voting rights between different classes of listed shares are broadly proportionate to the relative interests of those classes in the issuer's equity
- to treat all shareholders in the same position equally
- to communicate information in a way that avoids a false market in the listed shares

3.34 Based on feedback we think that the Premium Listing Principles are in practice either less relevant to, or not valued by, investors in OEICs given that these products are already highly regulated under funds regulation.

3.35 An alternative approach would be to retain the Premium Listing Principles for OEICs. However, that would be inconsistent with our overall approach which is to remove the premium listing requirements and align the segment more closely with standard listing.

Q13: Do you agree that OEICs should no longer be subject to the further Premium Listing Principles in LR7.2.1AR?

Q14: If you disagree, please explain which Premium Listing Principles you consider should be retained and why.

The listing-application process

- 3.36** We are proposing to remove from the listing application process the requirement for the new-applicant OEIC to publish FCA-approved listing particulars. The 'listing particulars' is a document that provides information on the issuer and its securities, similar to a prospectus.
- 3.37** Our practical experience, and stakeholder feedback, indicates that prospective investors in an OEIC can rely on information disclosed under other regulation (such as a UCITS prospectus and short form disclosures in the KII document) to inform their investment decision, rather than the Listing Particulars.
- 3.38** Producing Listing Particulars is duplicative because of overlap between the information contained in both this document and a UCITS prospectus. However, Listing Particulars also provide incomplete information because the disclosure requirements are not tailored to the business models and structures of OEICs. In particular, it is unlikely to include information on the sub-funds that the OEIC creates after listing with the FCA. The OEIC is also not specifically required to disclose information on arrangements for secondary market trading, such as the role of the Authorised Participant.
- 3.39** Removing listing particulars from the listing application process will reduce unnecessary regulatory burden and the associated costs and delay.

Q15: Do you agree that OEICs should not be required to publish FCA-approved listing particulars to support their listing application?

Sponsors

- 3.40** We are proposing to remove the obligation on OEICs to appoint an FCA-approved sponsor, aligning the requirements with those applicable to other issuers with standard listed securities. A sponsor is an expert in the Listing Rules with significant responsibilities and obligations to the FCA which may require it to undertake extensive due diligence. For issuers, appointing a sponsor can often involve a substantial amount of work, cost and time. For OEICs, we consider this disproportionate to the benefits when compared to companies of a different nature with a premium listing.
- 3.41** Our proposals would also significantly reduce the sponsor's role. A sponsor guides a premium-listing applicant through the listing process, ensures its directors understand their responsibilities and obligations under the Listing Rules and DTRs and ensure that the issuer has adequate systems and controls in place to meet them. The appointment of a sponsor will no longer be required for OEICs following our proposals to dis-apply various Listing Rules obligations, such as the publication of Listing Particulars and the related party regime.

Q16: Do you agree that OEICs should not be required to appoint an FCA-approved sponsor?

Q17: If you disagree, in what circumstances should a sponsor be appointed and why?

A bespoke, standard listing segment in new LR chapter 16A

- 3.42** LR chapter 16 currently sets the premium listing requirements for OEICs. We propose to keep a distinct listing segment but relabel it 'standard listing'. LR chapter 16A will replace the current chapter 16 and be the only listing category available for OEICs.
- 3.43** The opportunity to admit a second line of shares with a standard listing under LR 14 will no longer apply because this is conditional on the OEIC also having a premium listing. In practice, OEICs do not make use of this provision, and it is unnecessary to offer two standard listing categories for OEICs.

Q18: Do you agree that we should make new LR chapter 16A into a bespoke and only listing segment for OEICs?

Proposals for existing premium listed OEICs

- 3.44** Currently there are 11 OEICs with a premium listing subject to the regime set out in LR Chapter 16. We propose that when the final, new rules come into force (which we are proposing should be three months after their publication), they will apply to new applicants and those that already have a premium listing.
- 3.45** Therefore, when the new rules come into force, the premium listing will automatically change into a standard listing for OEICs that are currently listed under LR chapter 16. Premium-listed OEICs will not be required under the Listing Rules to take any further action.
- 3.46** We considered whether to introduce new interim or transitional arrangements to retain premium listing for OEICs that are already premium listed. We decided against it because we considered it would create confusion amongst market participants and not achieve a level playing field amongst listed OEICs.

Q19: Do you agree with our proposals for applying the standard listing rules in new LR chapter 16A to OEICs that already have a premium listing?

Q20: Will there be any impact on existing investors who have purchased a premium listed ETF automatically converting to a standard listed ETF?

Q21: Do you agree with that the new rules should start applying three months after publication? Specifically, does this timeframe pose any difficulties for OEICs in relation to their legal obligations or communications with investors?

Q22: If you disagree, what timeframe should apply and why?

Q23: Should OEICs be required to take any specific action to draw these changes to the attention of their investors? If so, what should that action be and why?

Other changes

- 3.47** We are not proposing to change the listing application fees or annual listing fees for OEICs. We will consult on changes to our fees manual in due course to maintain this position.³
- 3.48** We are also proposing to review technical and procedural notes in the FCA's online Knowledge base and relevant listing forms. We will consult on any consequential amendments in due course.
- 3.49** In [CP19/33](#) we consulted on amendments to the Listing Rules to include a requirement mandating the disclosure of rights attached to securities. We proposed not to apply this to OEICs. We will update on those proposals in our Handbook Notice for CP19/37.

The UK's withdrawal from the EU

- 3.50** Our proposals do not, of themselves, carry any specific implications regarding ETFs following the UK's withdrawal from the EU. However, we will monitor the law as it develops for overseas incorporated ETFs that are currently FCA-recognised.
- 3.51** We will assess if further amendments to the listing regime are necessary in relation to the population of OEICs that are FCA recognised and eligible to list, or remain listed.

³ Minor consequential changes to the Fees Manual from our proposals are set out in Appendix 1 to this CP.

Annex 1

Questions in this paper

- Q1:** Do you agree with our objectives and approach to creating a more proportionate listing regime for OEICs? Are there other criteria we should be applying?
- Q2:** Do you agree that we should dis-apply the additional Listing Rules requirement for an OEIC to exercise operational control over the business it carries on as its main activity?
- Q3:** Do you agree we should dis-apply the related party rules for OEICs?
- Q4:** Do you agree that we should dis-apply the rules on further share issuances for OEICs?
- Q5:** Do you agree that we should remove the premium listing requirements which impose various additional voting requirements on OEICs in their interactions with shareholders?
- Q6:** If you disagree that we should remove these voting requirements, what should we retain (or adapt) and why?
- Q7:** Do you agree that we should remove the provisions on identification and transparency of large shareholders?
- Q8:** Do you agree that we should remove the detailed notification requirements from the LR for OEICs?
- Q9:** If you disagree, what should we retain from premium listing (or alternatively adapt for OEICs) to ensure that information is notified to the market and why?
- Q10:** Do you agree with our proposals to reduce the additional disclosure requirements in annual financial reports for OEICs?
- Q11:** If you disagree, which items should we retain for disclosure in annual financial reports and why?
- Q12:** Do you agree with our proposal in relation to DTR7.2 (Corporate Governance)?
- Q13:** Do you agree that OEICs should no longer be subject to the further Premium Listing Principles in LR7.2.1AR?
- Q14:** If you disagree, please explain which Premium Listing Principles you consider should be retained and why.

- Q15:** Do you agree that OEICs should not be required to publish FCA-approved listing particulars to support their listing application?
- Q16:** Do you agree that OEICs should not be required to appoint an FCA-approved sponsor?
- Q17:** If you disagree, in what circumstances should a sponsor be appointed and why?
- Q18:** Do you agree that we should make new LR chapter 16A into a bespoke and only listing segment for OEICs?
- Q19:** Do you agree with our proposals for applying the standard listing rules in new LR chapter 16A to OEICs that already have a premium listing?
- Q20:** Will there be any impact on existing investors who have purchased a premium listed ETF automatically converting to a standard listed ETF?
- Q21:** Do you agree that the new rules should start applying three months after publication? Specifically, does this timeframe pose any difficulties for OEICs in relation to their legal obligations or communications with investors?
- Q22:** If you disagree, what timeframe should apply and why?
- Q23:** Should OEICs be required to take any specific action to draw these changes to the attention of their investors? If so, what should that action be and why?

Annex 2

Cost benefit analysis

Introduction

FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.

This analysis presents estimates of the significant impacts of our proposal. We provide monetary values for the impacts where we believe it is reasonably practicable to do so.

To assess the costs and benefits of our proposals for issuers, we rely on our standardised cost figures and other information on costs provided by stakeholders.

The current 11 premium-listed OEICs will be affected by our proposals. This is an aggregate of 402 sub-funds. This data is based on the FCA's Official List as of the date of this CP. In addition, any unlisted OEICs that apply for FCA listing in the future will benefit from our proposals.

One off costs

We expect issuers to incur upfront familiarisation costs in reading the amended Listing Rules applicable to OEICs. They will also need to assess and make any necessary changes to their internal procedures to adapt to the amended Listing Rules requirements, possibly removing procedures to comply with rules that will no longer apply to them.

We have based our calculations on the assumption that all 11 premium-listed OEICs will incur these costs. We have applied our standardised cost model and the following criteria:

- all of the premium-listed OEICs are medium sized firms
- our proposals contain small-scale, low impact changes given that they are mainly deregulatory rather than imposing new obligations
- assumed four compliance staff/employees per firm to familiarise themselves with the CP
- assumed 1.25 days' familiarisation work based on the number of pages in this CP
- assumed five to 10 days' implementation work per OEIC, which may vary depending on the size and the number of sub-funds of the OEIC
- assumed a £63 hourly wage (inclusive of overheads) for the staff involved

We therefore estimate this sort of work will cost circa £200,000 in total (around £18,000 per premium-listed OEIC) calculated as:

Total familiarisation costs:

Cost per OEIC (four employees x (1.25 hours x £63 per hour)) x 11 OEICs = £3,465

Total implementation costs:

Cost per OEIC (four employees x (10 days at 7 hours per day, at £63 per hour) x 11 OEICs = £194,040

Benefits

Listing application process

The costs to an OEIC of making an application for listing will be reduced by the removal of the requirement to produce FCA-approved Listing Particulars and to appoint a sponsor to support the application for premium listing and guide the issuer through the process. In some cases, these costs may have been met wholly or in part by the OEIC's manager.

The time and effort required on the part of the board to prepare for listing, and to be ready to meet the obligations that will apply thereafter, will be reduced by our removing many of the continuing obligations that currently apply to premium-listed OEICs.

These changes and cost savings will predominantly benefit new applicant OEICs for whom the listing applications process will be less burdensome and quicker. The costs savings per issuer (or potentially its manager) will comprise:

- costs incurred by new applicant OEICs in producing Listing Particulars including professional advisor's fees such as legal advisors and reporting accountants
- FCA vetting fees for the approval of the Listing Particulars - £2000 (per the FCA fees manual)
- professional fees payable by the new applicant OEIC to its sponsor

The amount of professional advisors' fees is likely to vary depending on how long-established the fund is when the listing application is made. In particular, established funds will require more detailed and complex disclosures in their Listing Particulars. We have estimated these amounts from information provided by stakeholders, but have not included them here because of FSMA restrictions on us disclosing confidential information. In our view, these amounts could be attributed to specific advisors or sponsors because there are relatively few firms advising OEICs on the Listing Rules. Listing applications by OEICs are also infrequent and names of those undertaking the advisory work are usually disclosed.

Continuing obligations

OEICs will no longer have to comply with extensive continuing obligations under the Listing Rules requirements for premium listing.

These include ad-hoc transparency and governance requirements, including shareholding voting rights which attach to specific transaction types or corporate actions. The benefit to OEICs is that they will no longer have to consider whether these

rules apply to their proposed transaction or corporate action. However, in practice, the majority of these requirements are unlikely to arise for OEICs. We have therefore not quantified this benefit.

The following ongoing costs will be removed which should lead to savings for OEICs:

- **Related party transactions**

Premium-listed OEICs need to maintain processes to identify related parties to be able to comply with the rules for related party transactions in LR11, including appointing a sponsor to advise it where applicable.

We estimate this might require between one to five days' work annually per issuer although this is likely to vary depending on its own circumstances.

Cost per OEIC (1 employee undertaking five days' work x (7 hours at £63 per hour))
x 11 OEICs = £24,255

We cannot reasonably quantify the additional sponsor's fees for ad-hoc advice as this will also vary and will depend on its private arrangements with its clients.

- **Annual report disclosures**

Premium-listed OEICs are subject to extensive disclosure requirements for the annual report and accounts in LR9.8. This includes, in particular, disclosure against the UK Corporate Governance Code and professional advisors' fees (including those of the auditor who is required to review various disclosures).

We estimate this might require between five to 10 days' work annually per issuer. This will vary depending on the issuer's own circumstances, including any changes to its board structure, and keeping pace with changes to the UK Corporate Governance Code. In some years the costs could be higher.

Cost per OEIC (1 employee undertaking 10 days' work x (7 hours at £63 per hour)) x
11 OEICs = £48,510

We cannot reasonably quantify the additional professional advisors' fees, including those of the auditor, because this will vary between issuers and their private arrangements with their advisors.

On the basis of 11 premium listed OEICs, this is an annual cost saving of £72,765 (£6,615 per issuer), plus significantly reduced professional advisors' fees.

Over time, this cost saving should significantly outweigh the initial one-off familiarisation and implementation costs of circa £18,000 per issuer.

OEICs that wish to apply to the FCA to be listed in the future will also benefit from these reduced costs.

Annex 3

Compatibility statement

Compliance with legal requirements

This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation, are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).

When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s. 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA is also required by s. 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.

This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s. 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.

In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.

This Annex includes our assessment of the equality and diversity implications of these proposals.

Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRRA.

The FCA's objectives and regulatory principles: Compatibility statement

The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of market integrity. The proposals will help improve the orderly operation of this market and contribute to its soundness and stability.

We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because the changes we are proposing to the listing regime for OEICs will reduce unnecessary regulation, make the UK listing requirements less complex for OEICs to meet and for their investors to understand, and make these markets work better. For the purposes of the FCA's strategic objective, "relevant markets" are defined by s. 1F FSMA.

In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s. 3B FSMA.

The need to use our resources in the most efficient and economic way

Our proposals are designed to be as proportionate as possible and ensure that issuers have clarity about our expectations.

The principle that a burden or restriction should be proportionate to the benefits

The CBA in Annex 2 sets out the costs and benefits of the proposals in this CP. We believe that the benefits of these proposals outweigh the costs.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

We have had regard to this principle and do not consider that our proposals undermine it.

The general principle that consumers should take responsibility for their decisions

We have had regard to this principle and do not consider that our proposals undermine it.

The responsibilities of senior management

We have had regard to this principle and do not consider that our proposals undermine it.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

We consider that our proposals do not undermine this principle.

The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

This principle is not relevant to our proposals.

The principle that we should exercise of our functions as transparently as possible

In the development of our proposals we have acted as transparently as possible. We published a Feedback Statement in October 2017, in response to a Discussion Paper, where we committed to prepare rules for consultation for the standard listing of OEICs. We also included this commitment in the 2019/20 Business Plan. We have also engaged with the industry and other stakeholders during the consultation process.

In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) FSMA). We do not consider this relevant in relation to our proposals.

Expected effect on mutual societies

The FCA does not expect the proposals in this paper to have an impact on mutual societies. They are not in scope of the proposals for OEICs.

Compatibility with the duty to promote effective competition in the interests of consumers

In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers.

Equality and diversity

We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. As part of this, we conduct an equality impact assessment to ensure that the equality and diversity implications of any new policy proposals are considered.

The outcome of the assessment in this case is stated in paragraph 2.2 of the Consultation Paper.

Legislative and Regulatory Reform Act 2006 (LRRRA)

We have had regard to the principles in the LRRRA for the parts of the proposals that consist of general policies, principles or guidance. We have clearly set out our proposed rules in a transparent way. The changes we are proposing to the listing regime for OEICs are intended to ensure that our requirements are more proportionate and better tailored to them.

We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance and consider that our proposals are consistent with the Code, including that all elements of guidance being proposed alongside new rules are designed to contribute to clarity of understanding and interpretation of our proposed new Handbook provisions.

Treasury Recommendations about economic policy

We consider that our proposals are consistent with the aspects of the government's economic policy to which the Financial Conduct Authority should have regard. They are of relevance, in particular, regarding competitiveness and the government's wish to ensure that the UK remains an attractive domicile for internationally active financial institutions, and that London retains its position as the leading international financial centre.

Annex 4

Abbreviations used in this paper

AIFs	Alternative Investment Funds
AIFMD	Alternative Investment Fund Managers Directive
CP	Consultation Paper
DP	Discussion Paper
DTR	Disclosure Guidance and Transparency Rules
ETFs	Exchange-Traded Funds
EU	European Union
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
LR	Listing Rules
MAR	Market Abuse Regulation
OEICs	Open-Ended Investment Companies
OTC	Over-The-Counter
RIS	Regulatory Information Service
UCITS	Undertakings for the collective investment in transferable securities
UK	United Kingdom



We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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Appendix 1

Made rules (legal instrument)

**LISTING RULES (OPEN-ENDED INVESTMENT COMPANIES) INSTRUMENT
2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 73A (Part 6 Rules);
 - (2) section 88 (Sponsors);
 - (3) section 96 (Obligations of issuers of listed securities);
 - (4) section 137A (The FCA’s general rules);
 - (5) section 137T (General supplementary powers); and
 - (6) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on *[date]*.

Amendments to the Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Listing Rules sourcebook (LR)	Annex C

Citation

- E. This instrument may be cited as the Listing Rules (Open-ended Investment Companies) Instrument 2020.

By order of the Board
[date]

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

premium listing (closed-ended investment fund) a *premium listing* of *equity shares* of a *closed-ended investment fund*.

standard listing (open-ended investment company) a *standard listing* of *equity shares* of an *open-ended investment company*.

Amend the following definitions as shown.

closed-ended (in *LR*) (in relation to investment entities) an ~~*investment company*~~ *investment entity* which is not an *open-ended investment company*.

premium listing (a) in relation to *equity shares* (other than those of a *closed-ended investment fund* ~~or of an *open-ended investment company*~~ or of a *sovereign controlled commercial company* that is required to comply with the requirements in *LR 21*), means a *listing* where the *issuer* is required to comply with those requirements in *LR 6* (Additional requirements for premium listing (commercial company)) and the other requirements in the *listing rules* that are expressed to apply to such *securities* with a *premium listing*;

...

(c) ~~in relation to *equity shares* of an *open-ended investment company*, means a *listing* where the *issuer* is required to comply with *LR 16* (Open-ended investment companies: Premium listing) and other requirements in the *listing rules* that are expressed to apply to such *securities* with a *premium listing*; [deleted]~~

...

premium listing a *premium listing* of *equity shares* (other than those of a *closed-ended investment fund* ~~or of an *open-ended investment company*~~ or of a *sovereign*

<i>(commercial company)</i>	<i>controlled commercial company</i> that is required to comply with the requirements in <i>LR 21</i>).
<i>premium listing (sovereign controlled commercial company)</i>	a <i>premium listing</i> of: <ul style="list-style-type: none"> (a) <i>equity shares</i> (other than those of a <i>closed-ended investment fund</i> or of an open-ended investment company); or ...
<i>standard listing (shares)</i>	a <i>standard listing</i> of <i>shares</i> other than <u><i>equity shares of an open-ended investment company</i></u> or <i>preference shares</i> that are <i>specialist securities</i> .

Delete the following definition. The text is not shown struck through.

<i>premium listing (investment company)</i>	a <i>premium listing</i> of <i>equity shares</i> of a <i>closed-ended investment fund</i> or of an <i>open-ended investment company</i> .
---	---

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3 Application, Notification and Vetting Fees

...

3 Annex UKLA transaction fees 12R

...

Category A2 includes:

...

(d) ...

(v) applying for the approval of a *universal registration document*;
or

(e) ~~where an issuer is an open-ended investment company, applying for the approval of listing particulars; [deleted]~~

Category A3 includes:

...

(b) applying for eligibility for *listing of equity shares* under *LR 16A*; or

...

...

Annex C

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Preliminary: All securities

...

1.5 Standard and Premium Listing

Standard and premium listing explained

1.5.1 G ...

(3) *Premium listing* exists for:

(a) *equity shares* of:

(i) commercial companies,

(ii) *closed-ended investment funds*, and

(iii) ~~*open-ended investment companies*~~, and [deleted]

(iv) *sovereign controlled commercial companies*; and

(b) ...

Any other *listing* will be a *standard listing*.

...

(6) In one case, for further classes of *equity shares* of ~~an *investment entity*~~ a *closed-ended investment fund*, the *equity shares* may be admitted to a *standard listing* provided that, and only for so long as, the *issuer* has a *premium listing* of *equity shares*.

...

...

1.6 Listing Categories

1.6.1A R An *issuer* must comply with the *rules* that are applicable to every *security* in the category of *listing* which applies to each *security* the *issuer* has *listed*. The categories of *listing* are:

...

(3) ~~premium listing (open-ended investment companies); [deleted]~~

(3A) premium listing (sovereign controlled commercial company);

(4) standard listing (shares);

(4A) standard listing (open-ended investment companies);

(5) standard listing (debt and debt-like securities);

...

...

4 Listing particulars for professional securities market and certain other securities: All securities

4.1 Application and Purpose

Application

4.1.1 R This chapter applies to an *issuer* that has applied for the *admission* of:

(1) securities specified in article 1(2) of the *Prospectus Regulation* (other than securities specified in article ~~1(2)(b)~~ 1(2)(a), (b) or (d) of that regulation); or

...

...

5 Suspending, cancelling and restoring listing and reverse takeovers: All securities

...

5.2 Cancelling listing

...

Examples of when FCA may cancel

5.2.2 G Examples of when the *FCA* may cancel the *listing* of securities include (but are not limited to) situations where it appears to the *FCA* that:

...

(4) the securities are equity shares with a standard listing issued by an ~~investment entity~~ a closed-ended investment fund where the ~~investment entity~~ closed-ended investment fund no longer has a premium listing of equity shares.

...

Cancellation of listing of securities with a premium listing

...

- 5.2.7A G Where ~~an investment entity~~ a closed-ended investment fund no longer has a premium listing of equity shares it must apply under LR 5.2.8R for cancellation of the listing of any other class of listed equity shares.

...

5.4A Transfer between listing categories

Application

- 5.4A.1 R This section applies to an *issuer* that wishes to transfer the category of its *listing* from:
- (1) ...
 - (2) a standard listing (shares) to a ~~premium listing (investment company)~~ premium listing (closed-ended investment fund); or
 - ...
 - (2C) a standard listing (shares) to a standard listing (open-ended investment company); or
 - (2D) a standard listing (open-ended investment company) to a standard listing (shares); or
 - (2E) a standard listing (open-ended investment company) to a premium listing (commercial company); or
 - (2F) a standard listing (open-ended investment company) to a premium listing (sovereign controlled commercial company); or
 - (3) a premium listing (commercial company) to a standard listing (shares); or
 - (4) a ~~premium listing (investment company)~~ premium listing (closed-ended investment fund) to a premium listing (commercial company); or
 - (5) a premium listing (commercial company) to a ~~premium listing (investment company)~~ premium listing (closed-ended investment fund); or
 - (5A) a premium listing (commercial company) to a standard listing (open-ended investment company); or

- (6) ~~a premium listing (investment company)~~ premium listing (closed-ended investment fund) to a standard listing (shares); ~~or~~
- ...
- (9) a ~~premium listing (investment company)~~ premium listing (closed-ended investment fund) to a premium listing (sovereign controlled commercial company); or
- (10) a premium listing (sovereign controlled commercial company) to a ~~premium listing (investment company)~~ premium listing (closed-ended investment fund); or
- (11) a premium listing (sovereign controlled commercial company) to a standard listing (shares); or
- (12) a premium listing (sovereign controlled commercial company) to a standard listing (certificates representing certain securities); ~~or~~
- (13) a premium listing (sovereign controlled commercial company) to a standard listing (open-ended investment company).

5.4A.2 G An issuer will only be able to transfer a listing of its equity shares from a ~~premium listing (investment company)~~ premium listing (closed-ended investment fund) to a standard listing (shares) if it has ceased to be ~~an investment entity~~ a closed-ended investment fund (for example if it has become a commercial company) or if it continues to have a premium listing of a class of equity shares. This is because LR 14.1.1R(1) provides that LR 14 does not apply to equity shares of ~~an investment entity~~ a closed-ended investment fund without a premium listing of equity shares.

5.4A.2 G An issuer will only be able to transfer a listing of its equity shares from a
A standard listing (open-ended investment company) to a standard listing
(shares) if it has ceased to be an open-ended investment company (for
example if it has become a commercial company). This is because LR
14.1.1 R(1A) provides that LR 14 does not apply to equity shares of an
open-ended investment company.

...

Shareholder approval required in certain cases

- 5.4A.4 R (1) This rule applies to a transfer of the listing of:
- (a) equity shares with a premium listing into or out of the category of ~~premium listing (investment company)~~ premium listing (closed-ended investment fund); or
- (b) equity shares with a premium listing out of the category of premium listing (commercial company); or

- (c) *equity shares or certificates representing shares with a premium listing out of the category of premium listing (sovereign controlled commercial company) into the category of standard listing (shares) or standard listing (certificates representing certain securities) or standard listing (open-ended investment company).*

...

- (3) (a) In the case of a transfer of the *listing of equity shares with a premium listing* into or out of the category of ~~*premium listing (investment company)*~~ *premium listing (closed-ended investment fund)*, the *issuer* must obtain at a general meeting the prior approval of a resolution for the transfer from a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; or
- (b) in the case of a transfer of the *listing of equity shares with a premium listing (commercial company)* into the category of *standard listing (shares) or standard listing (open-ended investment company)*, the *issuer* must obtain at a general meeting the prior approval of a resolution for the transfer from:
- (i) a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; and
- (ii) where an *issuer* has a *controlling shareholder*, a majority of the votes attaching to the *shares of independent shareholders* voted on the resolution; or

...

- (d) in the case of a transfer of the *listing of equity shares with a premium listing (sovereign controlled commercial company)* into the category of *standard listing (shares) or standard listing (open-ended investment company)*, the *issuer* must obtain at a general meeting the prior approval of a resolution for the transfer from:
- (i) a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; and
- (ii) where an *issuer* has a *controlling shareholder*, a majority of the votes attaching to the *shares of independent shareholders* voted on the resolution; or

...

...

5.6 Reverse takeovers

...

Acquisitions of targets from different listing categories: issuer changing listing category

...

5.6.28 G An issuer wishing to transfer a listing of its equity shares from a ~~premium listing (investment company)~~ premium listing (closed-ended investment fund) to a standard listing (shares) should note LR 5.4A.2G which sets out limitations resulting from the application of LR 14.1.1R(1) (application of the listing rules to a company with or applying for a standard listing of shares).

5.6.28 A G An issuer wishing to transfer a listing of its equity shares from a standard listing (open-ended investment company) to a standard listing (shares) should note LR 5.4A.2AG which sets out limitations resulting from the application of LR 14.1.1R(1A) (application of the listing rules to a company with or applying for a standard listing of shares).

...

8 Sponsors: Premium listing

...

8.2 When a sponsor must be appointed or its guidance obtained

When a sponsor must be appointed

8.2.1 R A company with, or applying for, a premium listing of its securities must appoint a sponsor on each occasion that it:

- (1) is required to submit any of the following documents to the FCA in connection with an application for admission of securities to premium listing:

...

- (d) listing particulars referred to in LR 15.3.3R, ~~LR 16.3.4R~~, LR 21.3.3R or LR 21.7.4R or supplementary listing particulars; or

...

8.2.1A R A company must appoint a sponsor where it applies to transfer its category of listing from:

...

- (2) a *standard listing (shares)* to a ~~*premium listing (investment company)*~~ *premium listing (closed-ended investment fund)*; or
- (3) a ~~*premium listing (investment company)*~~ *premium listing (closed-ended investment fund)* to a *premium listing (commercial company)*; or
- or
- (4) a *premium listing (commercial company)* to a ~~*premium listing (investment company)*~~ *premium listing (closed-ended investment fund)*; or
- ...
- (9) a ~~*premium listing (investment company)*~~ *premium listing (closed-ended investment fund)* to a *premium listing (sovereign controlled commercial company)*; or
- (10) a *premium listing (sovereign controlled commercial company)* to a ~~*premium listing (investment company)*~~ *premium listing (closed-ended investment fund)*; or
- (11) *a standard listing (open-ended investment company)* to a *premium listing (commercial company)*; or
- (12) *a standard listing (open-ended investment company)* to a *premium listing (sovereign controlled commercial company)*.

...

8.4 Role of a sponsor: transactions

Application for admission

8.4.1 R ...

- (4) *listing particulars* or *supplementary listing particulars* under *LR 15.3.3R* or ~~*LR 16.3.4R*~~.

...

New applicants: procedure

8.4.3 R A *sponsor* must:

...

- (4) submit a letter to the *FCA* setting out how the *applicant* satisfies the criteria in *LR 2* (Requirements for listing - all securities), *LR 6* (Additional requirements for premium listing (commercial company)) and, if applicable, *LR 15*, ~~*LR 16*~~ or *LR 21*, no later than when the first draft of the *prospectus* or *listing particulars* is

submitted (or, if the *FCA* is not approving a *prospectus*, at a time to be agreed with the *FCA*).

...

9 Continuing obligations

...

9.3 Continuing obligations: holders

...

Pre-emption rights

...

9.3.12 R *LR* 9.3.11R does not apply to:

...

- (4) an *overseas company* with a *premium listing* if a disapplication of statutory pre-emption rights has been authorised by shareholders that is equivalent to an authority given in accordance either with section 570 or section 571 of the Companies Act 2006 or in accordance with the law of its country of incorporation provided that the country has implemented article 29 of Directive 77/91/EEC or article 33 of Directive 2012/30/EU and the issue of *equity securities* or sale of *treasury shares* that are *equity shares* by the *listed company* is within the terms of the authority; ~~or~~
- (5) ~~an open-ended investment company.~~ [deleted]

...

14 Standard listing (shares)

14.1 Application

14.1.1 R This chapter applies to a *company* with, or applying for, a *standard listing* of *shares* other than:

- (1) *equity shares* issued by a *company* that is ~~an investment entity~~ a *closed-ended investment fund* unless it has a *premium listing* of a class of its *equity shares*; ~~and~~
- (1A) *equity shares* issued by an *open-ended investment company* (unless applied by *LR* 16A); and
- (2) *preference shares* that are *specialist securities*.

...

Delete LR 16 (Open-ended investment companies: Premium listing) in its entirety. The deleted text is not shown but the chapter is marked [deleted], as shown below.

16 Open-ended investment companies: Premium listing [deleted]

After LR 16 (Open-ended investment companies: Premium listing), insert the following new chapter as LR 16A. The text is not underlined.

16A Open-ended investment companies: Standard listing

16A.1 Application

16A.1.1 R This chapter applies to an *open-ended investment company* applying for, or with, a *standard listing*.

16A.2 Requirements for listing and listing applications

Requirements for listing

16A.2.1 R To be *listed*, an *applicant* must:

- (1) be an *open-ended investment company* which is:
 - (a) an *ICVC* that has been granted an *authorisation order* by the *FCA*; or
 - (b) an *overseas collective investment scheme* that is a *recognised scheme*; and
- (2) comply with *LR 2* (Requirements for listing: All securities).

Listing applications

16A.2.2 R An *applicant* for admission must comply with *LR 3* (Listing applications).

16A.2.3 G The *FCA* will admit to *listing* such number of *securities* as the *applicant* may request for the purpose of future issues. At the time of issue the *securities* will be designated to the relevant *class*.

Multi-class fund or umbrella fund

16A.2.4 R An *applicant* which is a multi-class or umbrella fund is not required to make a further *listing application* when creating a new *class of security*, if the *applicant*:

- (1) does not increase its share capital for which *listing* has previously been granted; and
- (2) provides the *FCA* with details of the new *class*.

16A.3 Requirements with continuing application

Authorisation or recognition

16A.3.1 R An *open-ended investment company* must comply with LR 16A.2.1R(1) at all times.

Continuing obligations

16A.3.2 R An *open-ended investment company* must comply with LR 14.3.1R, LR 14.3.4R, LR 14.3.6R to LR 14.3.8R and LR 14.3.24R.

16A.3.3 G An *open-ended investment company* whose *equity shares* are admitted to trading on a *regulated market* in the *United Kingdom* should consider its obligations under the *disclosure requirements*.

Changes to tax status

16A.3.4 R An *open-ended investment company* must notify any change in its taxation status to a *RIS* as soon as possible.

Insert the following new definitions in the appropriate alphabetical position and amend or delete the existing definitions as shown.

Appendix 1 Relevant definitions

App 1.1 Relevant definitions

App 1.1.1 ...

...

<i>closed-ended</i>	(in LR) (in relation to investment entities) an investment company <i>investment entity</i> which is not an <i>open-ended investment company</i> .	
<i>premium listing</i>	(a)	in relation to <i>equity shares</i> (other than those of a <i>closed-ended investment fund</i> or of an open-ended investment company or of a <i>sovereign controlled commercial company</i> that is required to comply with the requirements in LR 21), means a <i>listing</i> where the <i>issuer</i> is required to comply with those requirements in LR 6 (Additional requirements for premium listing (commercial company)) and the other requirements in the <i>listing rules</i> that are expressed to apply to such <i>securities</i> with a <i>premium listing</i> ;
	...	
	(c)	in relation to equity shares of an open-ended investment company, means a <i>listing</i> where the <i>issuer</i> is required to comply with LR 16 (Open-ended investment companies: Premium listing) and other

		requirements in the <i>listing rules</i> that are expressed to apply to such securities with a <i>premium listing</i> ; [deleted]
	...	
<i>premium listing (commercial company)</i>		a <i>premium listing</i> of <i>equity shares</i> (other than those of a <i>closed-ended investment fund</i> or of an <i>open-ended investment company</i> or of a <i>sovereign controlled commercial company</i> that is required to comply with the requirements in LR 21).
<u><i>premium listing (closed-ended investment fund)</i></u>		<u>a <i>premium listing</i> of <i>equity shares</i> of a <i>closed-ended investment fund</i>.</u>
<i>premium listing (sovereign controlled commercial company)</i>		a <i>premium listing</i> of:
	(a)	<i>equity shares</i> (other than those of a <i>closed-ended investment fund</i> or of an <i>open-ended investment company</i>); or
	...	
<i>premium listing (investment company)</i>		a <i>premium listing</i> of <i>equity shares</i> of a <i>closed-ended investment fund</i> or of an <i>open-ended investment company</i>.
...		
<u><i>standard listing (open-ended investment company)</i></u>		<u>a <i>standard listing</i> of <i>equity shares</i> of an <i>open-ended investment company</i>.</u>
<i>standard listing (shares)</i>		a <i>standard listing</i> of <i>shares</i> other than <u><i>equity shares</i> of an <i>open-ended investment company</i></u> or <i>preference shares</i> that are <i>specialist securities</i> .

...

TR 3 Transitional Provisions for Investment Entities already listed under LR 14

(1)	(2) Material to which the transitional provisions applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
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1.	<i>LR 5.2.7AR, LR 14, LR 15 and LR 16A</i>	R	...	6 April 2010 [date] Indefinite	6 April 2010 [date]
2.	<i>LR 5.2.7AR, LR 14, LR 15 and LR 16A</i>	R	<i>LR 14</i> continues to apply to the entity for so long as it is listed after that date (and <i>LR 15</i> and <i>LR 16A</i> do not apply) unless the entity makes an election under rule 3 of these transitional provisions.	6 April 2010 [date] Indefinite	6 April 2010 [date]
3.	<i>LR 5.2.7AR, LR 14, LR 15 and LR 16A</i>	R	The entity may by notice in writing given to the FCA elect to comply with the requirements of <i>LR 15</i> or <i>LR 16A</i> (whichever is applicable to the entity) instead of the requirements in <i>LR 14</i> from a date specified in the notice. An entity should not give notice under this transitional rule unless it has come to a reasonable opinion, after having made due and careful enquiry, that it can satisfy the requirements of <i>LR 15</i> and <i>16A</i> (as the case may be).	6 April 2010 [date] Indefinite	6 April 2010 [date]
4.	<i>LR 5.2.7AR, LR 14, LR 15 and LR 16A</i>	R	If an entity gives a notice under TR3 3R of these transitional provisions it must comply with the requirements of <i>LR 15</i> or <i>LR 16A</i> (as the case may be) from the date specified in the notice and the requirements of <i>LR 14</i> no longer apply to the entity from that date.	6 April 2010 [date] Indefinite	6 April 2010 [date]

Note: An entity which intends to give notice under ~~LR 3~~ *LR TR 3 3R* should consult with the FCA at the earliest possible stage if it intends to comply with the requirements of *LR 15* or *LR 16A* (whichever is applicable to the entity) instead of the requirements in *LR 14*.

