PROCEDURAL NOTES

Eligibility process - UKLA/PN/901.1

****

Application for admission Official List using a passported prospectus for shares
****

The listing and prospectus regimes are separate. An issuer who requires its securities to be admitted to the Official List maintained by the UKLA must apply to ~~the FSA~~ us for those securities to be listed. The issuer must then meet whichever set of listing conditions are relevant for the security to be listed.

Final Terms - UKLA/PN/902.1

****

Background

The UKLA takes a streamlined approach when listing securities that are the subject of final terms. The usual system, where documents are submitted 48 hours before a listing hearing, is not followed here. Instead, the issuer's or agents operating on the issuer's behalf need to submit the final terms ~~in order to list all related securities~~ before ~~listing~~ 2pm on the business day before admission is due.

The final terms process

How to submit final terms

Final terms should ~~only~~ be sent to the UKLA and any recognised investment exchange (RIE) on which the securities are to be traded, when the issuer and its agent are certain that these are complete, accurate and the securities are suitable for ~~listing~~ admission. In accordance with Listing Rule 3.4.8 R, final terms should be submitted in their definitive form by the ~~applicant~~ issuer or their authorised agent to the UKLA by 2pm on the business day before the ~~listing~~ admission is due. ~~As outlined in LR 3.4.8 R(2), we prefer f~~ Final terms ~~to~~ should be submitted by email to **final.terms@fsa.gov.uk**. This ensures the greatest possible speed and accurate record-keeping.

The sender will receive an automated response to confirm receipt of the final terms. However, please note that this automated response does not mean that admission will necessarily be granted. If sending the final terms by email is not possible, please fax them to 020 7066 8364.

The issuer is responsible for ensuring that securities that are the subject of the final terms are suitable for ~~listing~~ admission. For example:

- the securities will be in issue at the time and date the listing becomes effective;
- issuing the securities does not require any additional terms and conditions from those set out in the base prospectus;
- no supplement to the base prospectus is required to list the securities; and
- the final terms document is in its definitive form.

The UKLA processes the information ~~given by~~ disclosed on the final terms on to the Official List. ~~They~~ We liaise with the RIE to ensure that the securities are admitted simultaneously to listing and trading on the day on which admission has been requested.

Occasionally, we receive final terms for reasons other than to be listed on the Official List. In these cases, we ask issuers and their agents to attach a covering note which makes it clear that the securities that are the subject of the final terms are not for listing.

Admission to trading

To comply with LR 2.2.3's eligibility requirements for ~~listing~~ admission, securities must be admitted to trading on an RIE market for listed securities. The final terms should also be submitted to an RIE so they can be admitted to trading. The UKLA has procedures in place with RIEs to ensure that listing and trading take place simultaneously. However, companies must still comply with the rules of the respective organisations concerning the submission of final terms.

When are securities admitted to listing?

Securities are only considered to be officially listed when the UKLA announces this to the market in the form of its Official List Notice, which is released at 8:00am each business day ~~via an approved RIS news service under the heading 'Official List'~~, as per LR 3.2.7 G. Although we maintain the Official List on our website (**http://www.fsa.gov.uk/ukla/officialList.do**), the UKLA's notice takes precedence over our website's list. While we make every attempt to keep our website up to date, we strongly recommend that issuers and their agents check the Official List Notice on the relevant date to ensure listing has taken place.

Please also note that the UKLA does not list securities ~~where~~ on a temporary ISIN ~~has been used~~ code. Therefore when searching for securities on the Official List Notice or ~~the~~ our website please do so using only the permanent ISIN.

Fees

In respect of final terms, the UKLA does not charge a listing fee for admission to the Official List. However, as the UKLA reviews final terms in order to ensure they comply with the PD Regulation, we have consulted on introducing a fee payable for the review of final terms in CP 12/28.

What are the other circumstances where the 2pm approach may be used?

1. Where the substance of the transaction is the submission of final terms (e.g. draw down prospectuses and draw down base prospectuses). In these instances, they may be sent in on the same timescales that we allow for final terms.
2. ~~The p~~ Public sector issuers referred to in paragraphs 2 and 4 of Schedule 11A of FSMA may also follow the 2pm approach, but must also submit an application for the admission of securities form by the same deadline. (**http://www.fsa.gov.uk/pubs/forms/ukla_application_admission.doc**)

Circumstances where securities that are the subject of final terms may not be listed the following day

Occasionally, securities that are the subject of final terms may not be listed on the basis of the final terms provided. Final terms received by the UKLA may in certain circumstances be challenged. Some examples are set out below of where we might challenge the listing of securities relating to final terms.

Firstly, the final terms do not meet the eligibility requirements for the securities to be listed. Reasons include but are not limited to:

- When securities that are the subject of final terms have been submitted before their issue date. LR 2.1.5G states that the admission of securities cannot be conditional in any event; in this case this concerns their issue.
- When securities are not being admitted to trading on an RIE's market for listed securities. For further information, please see LR 2.2.3R.
- When the final terms may describe a further issue but refer to a tranche of securities that have not been previously listed. For example, if three separate tranches of the same security are referred to in one ~~supplement~~ final terms, and we have not received ~~supplements~~ final terms in relation to the previous tranches, further issues will not be listed by UKLA until we have received and listed the outstanding securities. Please refer to LR 2.2.9R, which states that an application must relate to all securities of the relevant class, issued or proposed to be issued.

Secondly, when there is insufficient or inadequate information to list the final terms. Common examples include:

- when the issuance programme to which they are connected has expired;
- when the securities programme is not listed in London;
- when the final terms state that they are not for listing; and
- when there is insufficient information in the final terms alone to allow the UKLA to list the securities. This information may include ISIN numbers, denominations and maturity dates.

Other reasons why final terms may be challenged could include:

- When the final terms incorporate by reference the terms and conditions of an older prospectus or base prospectus. This is inconsistent with the guidance in the ~~'Frequently asked questions regarding prospectuses: common positions agreed by ESMA Members' document~~ ESMA – Questions and Answers on Prospectuses. This is available on the ESMA website (http://www.esma.europa.eu/).
- When a draft prospectus has been submitted to the UKLA for approval, the subject of which is a security which is also the subject of final terms. In this situation the final terms **should not** be submitted.
- Where a base prospectus has been updated but the final terms refer to the previous base prospectus.
- Where the summary of the individual issue is not annexed to the final terms.
- Where the final terms do not comply with the requirements of PR Appendix 3, Annex 2~~0~~1.

****

Key steps that can be taken by the issuer or their agents to ensure a trouble-free listing of securities using final terms

- Ensure that no conditions or situations described in the section: 'Circumstances where securities that are the subject of final terms may not be listed the following day' apply to you.
- Send the final terms by email to **final.terms@fsa.gov.uk** with an attached covering note. On submission of your email you will receive confirmation of receipt. Check that the securities that have been submitted for ~~listing~~ admission are on the Official List Notice that is released every business day at 8am on ~~RNS~~ via an approved RIS news service. To see them select 'Official List Notice' for the headline type.

****

How to submit documents for approval

****

The documents must be:

- accompanied by the contact details of the issuer (or the agent acting on its behalf);
- in hard copy form in triplicate or in an agreed electronic format;
- annotated in the margin to indicate where the document satisfies the applicable paragraphs of the listing rules or prospectus rules;
- accompanied by all the completed relevant checklists, referenced to the draft document then being submitted;
- if applicable to the transaction to which the document relates, accompanied by a declaration by the sponsor to the issuer in the form set out in the sponsor's completed Conflicts Declaration form*;

[Footnote: Please note that the requirement for a Sponsor's Conflicts Declaration will be deleted on 31 December 2012.]

****

What is the next stage of the document review process?

****

The UKLA staff assigned to the document will:

- vet the document to ensure it complies with the Listing Rules and Prospectus Rules (as appropriate);
- check that all supporting documents relevant to approval of the document in line have been received;
- liaise with the issuer (or any agent acting on its behalf);
- be the person to whom all letters and correspondence between the issuer, sponsor or the agent acting on its behalf and the UKLA should be addressed; and
- approve the document.

****

Submission of further drafts

****

We will not accept further submissions or documentation in electronic format other than via ELS. Fax submissions will only be accepted if agreed in advance with ~~the reader~~ UKLA staff. At any time before the document is formally approved, we may require the issuer to provide additional information or documents. The circumstances of each case will dictate what additional information, if any, is appropriate. Should the document change substantially or there is a change in the structure of the transaction or other matters come to light during the course of the vetting process which would change the risk assessment profile of the document, we reserve the right to reallocate the document or to amend the timetable. We advise issuers (or the agent acting on

their behalf) to contact the relevant UKLA staff as soon as they are aware of any such issues.

What happens during the approval process?

We would normally expect to review and comment on no more than three drafts of a document. However, we will only give documents formal approval once all comments raised on a document by the relevant member(s) of ~~FSA~~ UKLA staff have been addressed to our satisfaction.

****

Website ~~the FSA~~ our website at the following address: *www.fsa.gov.uk.*

****

Public offer prospectus - drafting and approval - UKLA/PN/904.1

****

In what format should we produce the Prospectus?

****

Cross referencing

Cross referencing must be specific when it relates to information required to be disclosed under the PD. For example it is not sufficient to say 'save as disclosed elsewhere in the document'. Where a significant change is being disclosed, we would expect any cross-reference to be precise, and to clearly disclose an actual change. Please note that the summary should not contain cross-references to other parts of the prospectus.

****

What historic financial information is required?

****

Complex financial histories

Normally, the historical financial information of the issuer reflects the business of the issuer as a whole throughout the required period, including significant acquisitions or disposals. However, there may be circumstances when the issuer has not prepared its historical financial information as a single business during the whole of the period for which the historical financial information is required under the PDRegulation (these types of issuers are therefore considered to have a 'complex financial history'). ESMA has provided guidance on the provisions of the ~~prospectus~~ regulation when considering complex financial histories in ~~its document~~ 'ESMA update of the CESR's recommendations for the consistent implementation of the European Commission's Regulation on Prospectuses no 809/2004' (ESMA Recommendations). This guidance can be found under 'documents' at www.esma.europa.eu. Issuers should consider the following when addressing the complex financial history requirements.

****

What contents should we include in the Prospectus?

****

~~Annex 1 item 10 – Capital resources~~

Annex 3 item 3.1 – Working capital

The requirement of the regulation is to provide a statement that the issuer has sufficient working capital for its present requirements (a 'clean" statement') or to explain how additional working capital will be provided. Under ESMA Recommendation 107, 'present requirements' is taken as being for at least the next 12 months from the date of the prospectus. To comply with the requirements no reference should be made to 'due and careful enquiry' in the statement, and the words 'is' or 'has' should be used rather than 'will have' or 'will be'.

****

Annex 3 item 3.2 – Capitalisation and indebtedness

The indebtedness statement should be provided ~~to~~ within 90 days of the document, but the capitalisation statement does not have to be provided within 90 days. If any of the information is more than 90 days old and there has been a material change since the last published financial information, you should provide additional information to update those figures. If any of the information is more than 90 days old, but there has not been any material change since the last published financial information, you should include a statement to that effect. Please also note the ESMA Recommendations in relation to capitalisation and indebtedness.

Sponsor firms - ongoing requirements during re-organisations - UKLA/PN/909.1

Rule: LR 8

Sponsor firms ongoing requirements during re-organisations

****

Contact with the Sponsor Supervision team

While it is appreciated that some sponsor firms may be liaising with other departments ~~in the FSA~~ in relation to the re-organisation (for example, where a change of control is proposed), it is important that, in addition, all sponsor firms contact the Sponsor Supervision team at the UKLA at an early stage in the process.

GOVERNANCE AND CONDUCT

Circulation and publication of unapproved documents - UKLA/TN/205.1

Rule: LR 13.2.1R; PR 3.1.10R

****

Our position on this matter is unequivocal: if a document is distributed in a form other than that we have approved we will pursue issuers and their advisers to the full extent of our powers as soon as we become aware of the breach. This may include bringing action against individuals both at the issuer ~~ing company~~ and at its advisory firms if the circumstances indicate that it is warranted.

We recognise that a document may require amendment after stamping, usually because of an error or omission. If this error or omission is discovered before the document is filed and distributed we can usually arrange to re-stamp it. Otherwise,

some form of supplementary prospectus, supplementary circular or an entirely new document may be required.

Equality of treatment -Listing Principle 5 - UKLA/TN/207.1
Rule: LR 7

Equality of treatment -Listing Principle 5
The Listing Principles apply to every ~~listed~~ company with a Premium Listing of equity shares. Under Listing Principle 5, a listed company must ensure that it treats all holders of the same class of its listed equity shares equally in respect of the rights attaching to such listed equity shares except where holders are in a different position.

****

There are a few limited sets of circumstances where the UKLA has accepted that an issuer can treat a category of shareholders, such as for example smaller or minority shareholders, differently from other shareholders. If an issuer wished to treat a category of shareholders differently it would need to satisfy us both that the group being treated differently is genuinely in a different position, and that there was a proper justification for doing so. Furthermore, all shareholders in that category would be treated equally. For example, proper justification may include where, without different treatment of shareholders, an issuer would have to comply with onerous legislation (see the explanation in ~~the technical note~~ UKLA/TN/101 regarding on Restrictions on Transfer). We would generally take the view that carrying out a capital reorganisation with the express aim of removing small shareholders from the register is not, in itself, proper justification.

TRANSACTIONS

Classification tests - UKLA/TN/302.1
Rule: LR 10.1.3R and LR 10 Annex 1

****

Class tests – figures used to classify assets and profits (LR10 Annex 1 paragraph 8R(3))

LR 10 Annex 1 paragraph 8R(3) states the class test numbers must be adjusted for post-balance sheet transactions for the issuer and the target. In relation to both issuer and target, adjustment must be made for transactions since the last year end which are class 2 or larger. We would not for instance expect adjustments to be made for transactions which have been announced but not yet completed. ~~(Please note that we have proposed clarification of this issue in CP12/2m section 4.11)~~

We also apply this approach in relation to transactions completed during the last financial year for both issuer and target. If we did not take this approach it would produce an anomalous result whereby a transaction that occurred shortly after the year

end would be adjusted for, but one that occurred shortly before the year end would not.

To illustrate our approach, here is an example:

> Listed issuer A is considering acquiring company B. A's latest published annual audited accounts are to 31 December 2011~~05~~ and B has a year end of 31 March 2012~~06~~. A completed a class 2 acquisition of target C, after its year end, in February 2012~~06~~. The figures for A must be adjusted before the class tests are performed so that the latest audited 12 month profit and asset figures for C are added to the profits and assets of A as extracted from the 31 December 2011~~05~~ audited accounts.
>
> If, however, A had disposed of C after its year end we would expect A's financial information to be adjusted so that 12 months of profits and assets for C are deducted from A's profits and assets before the class test is performed.
>
> If B had disposed of its subsidiary D, prior to its year end, the profits for B must be adjusted by removing all profits for D from the full year profits for B to 31 March 2012~~06~~. B's year-end balance sheet will already reflect this disposal and no further adjustment needs to be made.

Amendments to the terms of a transaction - UKLA/TN/304.1
Rule: LR 10.5.2R; LR 10.5.4R

It is common for general meeting resolutions seeking shareholder approval for Class 1 transactions to be subject to non-material amendments to the terms of the transaction following the meeting. We recognise that this discretion is important to enable an issuer's directors to make small administrative changes to smooth the completion of a transaction. However, it is obviously important that any changes should be non-material, as a material change to the terms of a transaction would probably require fresh shareholder approval or would be subject to a supplementary circular. It is for this reason that the opinion of the issuer's directors should not determine whether an amendment is non-material. If this were the case, the directors themselves would become the ultimate arbiters of whether any change to the terms of a transaction required shareholder approval under the Listing Rules, and this is ultimately a matter for the UKLA.

The general position is relaxed for offer situations where we recognise that in waiving the conditions to the offer, an issuer could be deemed to be making a material amendment to the terms of the transaction. In these situations, a resolution need not be expressly limited to non-material amendments. However, we will seek confirmation from the issuer that any material change to the offer price will not be made without prior shareholder approval or by way of a supplementary circular, as applicable.

Hostile takeovers - UKLA/TN/305.1
Rule: LR 10.5.2, LR 13.4.1, LR 13.4.3R, LR 13 Annex 1, PR Appendix 3 Annexes

****

Class 1 circulars

****

> *~~Please note the proposed changes to the responsibility statement as set out in CP 12/2.~~ Following the changes made in CP 12/25, the issuer will also be required to take responsibility. See LR 13.4.1R(4).

****

The '28-day circular'

****

To approve the 28-day circular, we require an updated sponsor ~~confirmation of independence~~ conflicts form and a new sponsor declaration on the production of a circular (see LR 13.2.4R). We recognise that, in certain circumstances, to start applying the 28-day deadline could be unrealistic due to the extent of the work involved. In these situations we would invite issuers to discuss the matter with us at the earliest opportunity.

****

Revised offers

Finally, we come to hostile or contested bid situations where shareholders have approved the original terms of the offer. If the offer terms are revised or consideration increased, LR 10.5.2 may require further shareholder approval if the revision or increase is material. If this occurs before the date of the general meeting, LR 10.5.4R may require a supplementary circular. We encourage the offeror's sponsors to contact us as soon as possible to discuss the circumstances in this situation.

Reverse Takeovers - UKLA/TN/306.1
Rule: LR5.1.2G; LR 5.6.7G

Timing of the announcement

****

LR 5.6.7G sets out examples of when the UKLA will generally consider a potential transaction sufficiently advanced to trigger a potential suspension requirement. ~~are if the issuer has approached the target's board, where the issuer has entered into an exclusivity period, or where the issuer has been given access to begin due diligence work (including where access is on a limited basis).~~ However, we appreciate that at times the situation may not be as clear cut as set out ~~above~~ in these examples and there may be situations where there has been a purely speculative leak where a potential suspension would be inappropriate.

Related party transactions – Modified requirements for smaller related party transactions - UKLA/TN/308.1
Rule: LR 11

LR 11.1.10R(2)(b) requires a written confirmation from an independent adviser* that the terms of the proposed transaction or arrangement with the related party are fair and reasonable as far as the shareholders of the listed company are concerned. These letters are provided to the FSA as regulator and our remit is set out in statute. We would only use these letters in the exercise of our statutory functions, and it is inappropriate and unnecessary to include language which seeks to limit our use of them. We also believe it is unnecessary to include third party disclaimers, as the purpose for which they are provided to the FSA is clear.

****

Footnote: *After 31 December 2012, the changes in CP12/25 will come into effect requiring confirmations to be from a Sponsor.

SPECIALIST COMPANIES

Special purpose acquisition companies (SPACs) - UKLA/TN/420.1
Rule: LR 5; LR 6; LR 14

****

iv. The SPAC may apply for its enlarged share capital to be listed under LR 6 on completion of the acquisition if it wishes. Alternatively, it may wish to ~~remain~~ re-list under LR 14.We will assess eligibility in the usual way and if re-admitted under LR 6, the usual rules for premium-listed ~~trading~~ commercial companies will apply once that happens.

~~*Please note that CP 12/2 section 6 on Externally Managed Companies has proposed new provisions that are applicable to SPACs.~~

Common questions on UK-REITs - UKLA/TN/421.1

****

2. If a property company converts to REIT status, do its obligations under the listing regime change? Will it have to re-list as an investment fund?

No – if an existing listed issuer adopts REIT status, its obligations under the Listing Rules will not automatically change. This is because a listed company is subject to the obligations contained in its particular listing category until it de-lists or the UKLA grants an application to ~~recategorise~~ transfer its listing. So, for example, an issuer listed under the Premium (Commercial Company) that obtains REIT status will remain subject to that category.

Where the move to REIT status is part of substantial changes to the company's business model – such that, in its view, its existing listing obligations may no longer

be appropriate after the reorganisation is complete – it may apply to the UKLA to have its listing ~~recategorised~~ transferred to a more appropriate listing category.

3. Does conversion need shareholder approval under the Listing Rules?

~~In converting to REIT status, a property company will incur a charge of 2% of its gross assets. This is a classifiable transaction, but is likely to be a class 3 transaction for most issuers and so would not require shareholder approval.~~

No - conversion to REIT status does not itself require a shareholder approval under the Listing Rules.

Open-ended investment companies - UKLA/TN/423.1
Rule: LR 16; LR 4.2.3R

The open-ended investment company listing category set out in LR 16 is available for either ~~FSA~~ authorised investment companies with variable capital or overseas recognised schemes. The latter category consists of UCITS compliant schemes, the preferred format of most European exchange traded fund (ETF) issuers. It is not available to unrecognised overseas schemes. New applications for listing follow the same process as for other premium listing categories (and in particular must be made on behalf of the issuer by a sponsor) save for the following exceptions set out below.

****

Working capital statements

An exception to the above is generally made in the case of working capital statements. Where an issuer is an ~~FSA~~ authorised open-ended fund, or is a UCITS scheme from within the EEA, we are unlikely to insist on a working capital statement in an issuer's listing particulars.

PERIODIC FINANCIAL INFORMATION

Half-yearly and annual reports - UKLA/TN/501.1
Rule: DTR 4.1; DTR 4.2

Responsibility

Under DTR 4.2.11R and DTR 4.1.13R, the issuer has exclusive regulatory responsibility for compiling its annual and half-yearly reports. ~~Accordingly, the references in DTR 4.1.13(2) and DTR 4.2.11(2) – concerning persons who have accepted responsibility – have been removed in the final rules. We acknowledge this will create a potential difference between these rules and~~ DTR 4.1.12R and DTR 4.2.10R, which for annual and half-yearly reports require the identification of the persons making responsibility statements., ~~These rules~~ copy-out Articles 4.2(c) and 5.2(c) respectively of the Transparency Directive, and should be considered as standalone provisions with no effect on the issuer's exclusive regulatory responsibility.

REGULATORY ANNOUNCEMENTS

Delaying disclosure / dealing with leaks and rumours - UKLA/TN/520.1
Rule: DTR 1.3; DTR 2.7; LR 5.1.3G

****

Where the UKLA is obliged by an issuer's non-disclosure to invoke our powers to require an announcement or to suspend an issuer's securities, we may make ex post enquiries as to whether all parties have been sufficiently open and cooperative in their dealings with us to that point and whether there have been any breaches of ~~the FSA's~~ our rules.

DISCLOSURE OF POSITIONS HELD BY ISSUER, INVESTORS AND MANAGEMENT

Title: Scope and application of vote holder and issuer notification rules - UKLA/TN/541.1
Rule: DTR 5

DTR 5 requirements concern the control over exercising voting rights attached to shares. Disclosing changes in major shareholdings are designed to enhance market transparency.

DTR 5 requires ~~shareholders (or those with rights to acquire shares) of an issuer traded on a regulated market~~ holders of shares and certain financial instruments to inform the issuer and us simultaneously ~~of changes to major holdings in the issuer's shares~~ when their holdings reach or fall below certain thresholds. Issuers must then disseminate this information to the wider market.

Issuer scope

Issuers on regulated markets

UK issuers ~~with~~ whose shares are traded on regulated markets must comply with DTR5.

Non-UK issuers ~~and their shareholders~~ whose shares are traded on a regulated market and for ~~which~~ whom the UK is their home member state, must comply with the Transparency Directive (~~PD~~ TD) minimum disclosure requirements only (super-equivalent requirements do not apply). However, non-EEA issuers can be exempt from ~~the~~ certain TF requirements if their domestic regime is deemed equivalent.

EEA issuers, incorporated in another member state with a registered office located other than in the UK , whose shares are traded on a UK regulated market, will not be expected to comply with DTR 5, as they will already be required to comply with corresponding requirements in their home member states.

Issuers on prescribed markets
UK issuers ~~and shareholders of UK public companies~~ whose shares are traded on a prescribed market, such as AIM or ~~PLUS~~ ISDX Growth, must comply with DTR 5.

~~EEA issuers, incorporated in another member state with a registered office located other than in the UK with listed securities on a UK regulated market, will not be expected to comply with DTR 5, as they will already be required to comply with corresponding requirements in their home member states.~~

Non-UK issuers whose shares are traded on these markets are not required to comply with DTR 5.

Issuers of Global Depositary Receipts (GDRs)

****
If the issuer of the shares underlying the GDR has voting shares which are admitted to trading on a regulated market, the holder of depositary receipts representing those shares is treated as the holder of those underlying shares (by virtue of the definition of shareholder in the TD as copied out into the FSA Glossary) for the purposes of DTR 5 disclosure obligations.We also note that LR 18.4.3R(2) requires an overseas company that is the issuer of the underlying securities to comply with LR 14.3, and by looking at LR 14.3.23 R, there seems to be an obligation to comply with DTRs 4, 5 and 6. This is a result of LR 14.3.23R being added to LR 14.3 after the original reference in LR 14.4.3R was added, without the corresponding amendment to LR 14.4.3R being made. We clarify that we do not expect all GDR issuers to comply with all of DTR 4, 5 and 6.

Issuer's obligations - UKLA/TN/542.1
Rule: DTR 5.5; DTR 5.6.1R; DTR 5.6.1AR; DTR 5.8

****
Disclosures required by the issuer

~~*Frequency of total voting rights (TVR) announcements:*~~
~~Further to the paragraph above, we are conscious that, should an investor be required to make an intra-month disclosure and is aware of a potentially amended TVR denominator figure, (due to, for example a placing or rights issue), there may be uncertainty as to whether such disclosure should be based on either the precious month-end or amended denominator figure.~~

~~We remind issuers and investors that the DTR regime is based on the TD consultation process and as such, with regard to the DTRs, only the month end TVR figure can be relied upon. We will continue to monitor evolving market practices in this area.~~

Notification deadlines

UK issuers on regulated markets

Disclosure requirements	Deadline	Details
Total voting rights	As soon as possible for any relevant change, and no later than the end of the following business day. Also at the end of every calendar month	Disclose any changes in total number of voting rights and capital in respect of each class of share as soon as possible (in accordance with DTR 5.6.1R and 5.6.1AR).
Transactions in own shares	Within four trading days after transaction	Disclose transaction in own shares (i.e. if a holding reaches, exceeds or falls below a 5% and 10% threshold of voting rights concerned (DTR 5.5.1R).
Notifications from shareholders	By the end of the next trading day	Disclose any information notified to it by shareholders (in accordance with DTR 5.8.12R).
Changes to terms in voting rights	With immediate effect	Disclose any changes in rights attached to various classes of shares.

UK issuers on prescribed markets

Disclosure requirements	Deadline	Details
Total voting rights	As soon as possible for any relevant change, and no later than the end of the following business day. Also at the end of every calendar month	Disclose any changes in total number of voting rights and capital in respect of each class of share as soon as possible (in accordance with DTR 5.6.1R and 5.6.1AR).
Transactions in own shares	Within four trading days after transaction	Disclose transaction in own shares (i.e. if a holding reaches, exceeds or falls below a 5% and 10% threshold of voting rights concerned (DTR 5.5.1R).
Notifications from shareholders	By three trading days	Disclose any information notified to it by shareholders (in accordance with DTR 5.8.12R).
Changes to terms in voting rights	Changes to terms in voting rights	Disclose any changes in rights attached to various classes of shares.

Non-EEA issuers on regulated markets

Disclosure requirements	Deadline	Details
Notifications from shareholders	Within three trading days	Disclose any information notified to it by shareholders (in accordance with DTR 5.8.12R).
Total voting rights ~~disclosure~~	As soon as possible for any relevant change, and no later than the end of the following business day. Also at the end of every calendar month ~~in which a change takes place~~	Disclose any changes in total number of voting rights and capital in respect of each class of share as soon as possible (in accordance with DTR 5.6.1R and 5.6.1AR).

Shareholder obligations - UKLA/TN/543.1
Rule: DTR 5.3; DTR 5.8.3R; DTR 5.8.4R; DTR 5.9; DTR 5.10

Notifiable interests

****

Financial instruments

Persons who are not exempt must also notify the issuer and us of their direct or indirect holdings in financial instruments if the percentage of the person's voting rights reaches, exceeds or breaches a notifiable threshold. Where a financial instrument relates to more than one underlying share, a separate notification should be made to each issuer of the underlying shares. The holder of financial instruments is required to aggregate, and if necessary, notify all such instruments related to the same issuer (DTR 5.3.3R). The obligation to disclose the breakdown of financial instruments is a TD level 2 requirement. We will only require the notification of long derivative positions. For the purpose of notifications long positions cannot be offset against short positions held by investors. Please also see ~~Q & A's – Disclosure of Contracts for Difference~~ our published Q&A regarding the disclosure of Contracts for Difference ~~(available on our website~~ link: http://www.fsa.gov.uk/pubs/ukla/disclosure.pdf ~~for further information on DTR 5~~).

****

Filing notifications

Shareholders are required to file major shareholding disclosures with us in an electronic format using the TR-1 form. All parts of the form, including the Annex containing specific investor contact information, should be filed with ~~the FSA~~ us (DTR 5.10.1R). As set out in note xxii in form TR-1, the Annex is only to be filed with the competent authority. This means that shareholders are not required to send the Annex to the relevant issuer and additionally, issuers should ensure that this contact information is not disseminated to the market. More information about how to file the TR-1 form and electronic versions of the form are available on ~~the FSA~~ our website.

****

Procedures for the notification and disclosure of major holdings

****

We show below how some of the boxes for the TR-1 Form should be filled in by the proxy holder. (We have not included all the boxes from the form as many of these should be self-explanatory). Please note the most up to date version of form TR-1 is the one available on ~~the FSA's~~ our website:

Third country equivalent obligations - UKLA/TN/544.1

Rule: DTR 5.11.1R; DTR 5.11.2R; DTR 5.11.3R; DTR 5.11.4R; DTR 5.11.5G

Non-EEA issuers on regulated markets, whose home member state is the UK, are subject to the Transparency Directive (TD) requirements unless we deem the domestic regime to be equivalent to the TD. Non-EEA issuers on prescribed markets are not subject to these requirements.

Under the TD we may exempt non-EEA issuers from certain disclosure and transparency obligations provided that they are subject to equivalent obligations in their country (DTR 5.11).

If we determine that provisions in a third country are equivalent, then this will result in the following directive provisions being dis-applied:

- Article 12(6): Notification of the acquisition of or disposal of major holdings;
- Article 14: Acquisition and disposal of own shares; and
- Article 15: Notification following increase or decrease in capital/or voting rights.

When a regime is deemed equivalent, the issuer will not be expected to comply with DTR5. The issuer will have to comply with the requirements under DTR6, for example:

- the filing of information ~~with the FSA~~;
- the language provisions; and
- the dissemination of information provisions.

We have conducted equivalence assessments on several non-EEA jurisdictions. All other non-EEA issuers will be expected to comply with TD minimum. Further details of our approach to equivalence and a list of equivalent regimes are published on our website (link: http://www.fsa.gov.uk/doing/ukla/non_eea).

Changes in holdings - UKLA/TN/545.1
Rule: DTR 5~~.1.3; DTR 5.1.4; DTR 5.1.5~~

Increase or decrease in total number of shares with voting rights attached
Shareholders should be aware that ~~any increase or decrease in the total number of shares in issue with voting rights attached may trigger a disclosure obligation even though~~ they may have a disclosure obligation should an issuer notify the market that it has altered the total number of shares with voting rights attached, even if the shareholder has not increased or decreased the level of their holding of shares or other disclosable instruments. This arises because there is a change in the total number of shares (the denominator in the calculation) and so this will change the proportion of shares which may trigger a disclosure obligation.

The example below will help illustrate this point:
Example A:

- Company XYZ has 2,000 shares with voting rights attached in issue. Person A purchases 120 shares in issuer XYZ. His holding amounts to 6% of total shares; exceeds the 3% threshold and so a disclosure obligation is triggered.
- Issuer XYZ issuers a further 1,000 shares with voting rights attached and notifies the market that the total number of shares in issue is 3,000 ~~bringing the total number of shares in issue to 3,000~~. Even though there is no change in the number of shares held by person A, the percentage of voting rights held decreases from 6% to 4%. This triggers a disclosure obligation. This obligation arises in spite of the fact that person A has not changed his aggregate holdings.

Example B:

- Company XYZ has 2000 shares with voting rights attached in issue. Person A purchases 120 shares in issuer XYZ. His holding amounts to 6% of total shares, this exceeds the 3% threshold and so a disclosure obligation is triggered.
- Issuer XYZ repurchases 286 shares with voting rights attached and notifies the market that the total number of shares in issues is 1,714 ~~bringing the total number of shares to 1,714~~. Even though there is no change in the number of shares held by person A, the percentage of voting rights held increases from 6% to 7%. This triggers a disclosure obligation. This obligation arises in spite of the fact that person A has not changed his aggregate holdings.

Voting rights that are disregarded for notification purposes - UKLA/TN/546.1
Rule: DTR 5.1.3; DTR 5.1.4; DTR 5.1.5

****

Market makers
Market makers (as defined in DTR 5.1.4R) are exempt from disclosing holdings which remain below 10% of the issuer's total voting rights and capital in issue. This exemption falls away if they reach or exceed ~~or fall below~~ the 10% threshold. ~~So m~~ Market makers must disclose their total holdings if they change to reach or exceed 10%, or reach, exceed or fall below every 1% above 10%, of the issuer's total voting rights and capital in issue.

Market makers - UKLA/TN/548.1
Rule: DTR 5

Market makers will only be required to disclose holdings of 10% and above. To benefit from the exemption, the shares must be held by a market maker acting in that capacity and the market maker must comply with the conditions and operating requirements set out in DTR 5.1.3R (3). These requirements include that the market maker must not intervene in the management of the issuer, or exert any influence on the issuer to buy back such shares or support the share price. We consider shares held through long economic Contracts for Difference positions and qualifying financial instruments will not need to be notified, if the aggregate of all shares with voting rights attached is below 10%.

Asset managers - UKLA/TN/549.1
Rule: DTR 5

Asset managers

****

We consider shares held through long economic Contracts for Difference positions and qualifying financial instruments will not need to be notified, if the aggregate of all shares with voting rights attached is below 5%.

****

Example B:

Combined holdings exceeding or equal to the 5% threshold

An asset manager has a holding of 1% as principal and acquires a holding of 2% on behalf of clients (disregarded holdings). There is no disclosure requirement.

The asset manager then increases holdings on behalf of clients to 5% (a 3% increase) but the level of other holdings remains unchanged. Here the disclosure is 6%, as the combined holding has breached the 5% threshold as a result of the acquisition.

Trading book exemption - UKLA/TN/550.1
Rule: DTR 5

Trading book exemption

There is a partial exemption from notification for voting rights held in the trading book of credit institutions and investment firms. However, we re-emphasise that to benefit from the exemption, the credit institution or investment firm must ensure that the voting rights attached to shares held, or shares underlying financial instruments held, in the trading book are not exercised or otherwise used to intervene in the

management of the issuer. The following examples illustrate how the exemption should work in practice.

- In example A, the exempted trading book holding increases from 4% to 5% but this does not exceed 5%, and so no disclosure is required.
- In example B, the trading book holding increases from 4% to 5% but does not exceed 5% and the non-exempted interest of 6% has already been disclosed.
- The trading book holding then increases by 1% (from 5 to 6%), triggering a disclosure obligation. The disclosure should be 12% (6% Trading Book holding plus 6% non-exempted holding).

Credit institutions and investment firms: Trading book exemption

	Trading book holding covered by the exemption	Other interest, not covered by an exemption	Disclosure obligation
Example A	4%	0%	No disclosure required.
	Original holding 4% Change in holding +1% Total holding 5%	Original holding 0% Change in holding 0% Total holding 0%	No disclosure required as trading book holding does not exceed 5%.
Example B	4%	6%	6% – exempted holding need not be disclosed.
	Original holding 4% Change in holding +1% Total holding 5%	Original holding 6% Change in holding ~~-1~~ 0% Total holding ~~5~~ 6 %	No disclosure required – exempted holding need not be disclosed. The 6% holding has already been disclosed.
	Holding 5% Change in holding +1% Total holding 6%	Original holding 6% Change in holding 0% **Total holding 6 %**	12% – once the exempted holdings have breached 5% a disclosure is required of the new aggregated total.

Risk factors - UKLA/TN/621.1
Rule: PR Appendix 3 Annexes

The Prospectus Directive and requirements under FSMA

The Prospectus Directive (PD) requires all issuers to include disclosure on risk factors in the prospectus. The disclosure is driven by the relevant Annex disclosures and is therefore dependent upon the issuer, its industry and the securities being offered to the public or admitted to market.

In addition, Section D, Annex 2 of PR Appendix 3 requires summaries to contain prominent disclosure of ~~the~~ risks ~~factors~~, as required by the relevant Annexes.

Collective investment undertaking prospectuses - portfolio disclosure - UKLA/TN/622.1
Rule: PR Appendix 3 Annex 15 item 8.2

Annex 15 item 8.2 of ~~the Prospectus Rules~~ PR Appendix 3 requires collective investment undertakings to include a comprehensive and meaningful analysis of their portfolio in any prospectus. We often find that those investment funds that revalue their portfolios infrequently, and particularly those that only revalue at each balance sheet date, often wish to give their Annex 15 disclosure at the latest balance sheet date.

Operating and Financial Reviews - UKLA/TN/624.1
Rule: PR Appendix 3 Annexes

The Operating and Financial Reviews (OFR) disclosure requirements are set out in PR Appendix 3 ~~to the PD regulation~~ Annexes 1, 10, 25 and 28 items 9.1 to 9.2.3. Guidance from ESMA on the Operating and Financial Review is set out in paragraphs 27 to 32 of the ESMA update of the CESR Recommendations (ESMA Recommendations). To ensure completeness, issuers may wish to consider including annotations to the ESMA Recommendations in the margins of the prospectus (or within the margins of any annual accounts from which OFR information is being incorporated by reference).

Current trading and trend information - UKLA/TN/625.1
Rule: PR Appendix 3 Annex 1 item 12, 13 and 20.9

There are two parts to this requirement set out in ~~PR~~ Annex 1 item 12 of PR Appendix 3. The first requires backward-looking disclosures from the date of the document to the date of the last period end, explaining relevant activities that have occurred. The second requires forward-looking disclosures explaining relevant

activities that are expected to occur from the date of the document to the end of the current financial year. An initial submission often lacks one of these parts.

It is usual for any significant change disclosed pursuant to Annex 1 item 20.9 to be explained in the section on the issuer's current trading. Often such significant changes are only disclosed in fairly late drafts, and advisers should consider whether consequent updates should be made to the issuer's disclosures under ~~PR~~ Annex 1 item 12.

****

This article applies equally to all those ~~Prospective Directive~~ annexes of PR Appendix 3 where the equivalent disclosure requirements are necessary: Annex 10; Annex 23; Annex 25; and Annex 28.

Prospectus content - Financial information - UKLA/TN/627.1
Rule: PR Appendix 3 Annexes

Financial period of less than one year

Where an issuer is preparing a prospectus and, to comply with Annex 1 20.1, Annex 4 13.1,

Annex 7 8.2, Annex 10 20.1, Annex 11 11.1 or Annex 23 15.1 of PR Appendix 3 is required to audit a period of less than one year, these requirements makes it clear that the financial information should be prepared to the same standard applicable to the annual financial statements. As such, we would not expect issuers to use IAS 34 when preparing such financial information.

Significant change statements - UKLA/TN/628.1
Rule: PR Appendix 3 Annexes

It is common for drafts of documents submitted for vetting to contain statements made under Annex 1 item 20.9 of PR Appendix 3, which simply cross-refer to the 'Current trading and prospects' section of the document.

****

Issuers should also note that under ~~PR Appendix 3,~~ Annex 22, where relevant, significant change statements are required to be included in the summary. Again, ~~PR Appendix 3~~ Annex 22 clearly states that summaries should not contain cross references to specific parts of the prospectus.

This article applies equally to all those ~~Prospective Directive~~ annexes in PR Appendix 3 where the equivalent disclosure requirements are necessary.

****

SPONSORS

Sponsors: conflicts of interest - UKLA/TN/701.1
Rule: LR 8

Identifying and managing conflicts

****

Systems and controls around conflicts identification and management

****

Please note ~~that we have proposed clarification of~~ the revised record-keeping requirements for sponsors published in CP12/25, ~~sections 3.31 – 3.35,~~ will be effective from 31 December 2012..

****

Provision of finance

****

The above list is not exhaustive and sponsor firms should contact the UKLA at an early stage in the transaction if they have any concerns about the application of the guidance and rules in LR 8.3.7AG to LR 8.3.12G (inclusive).

Managing the conflict

A sponsor firm is required by LR 8.3.9R to take all reasonable steps to put in place and maintain effective organisational and administrative arrangements, which ensure conflicts of interest do not adversely affect its ability to perform its functions properly under LR 8. This may, for example, include establishing 'Chinese Walls' between the sponsor team and other areas of the business with an interest in the issuer. In addition, LR 8.6.13AG guides a sponsor firm to have in place effective policies and procedures in relation to managing conflicts of interest. We expect sponsors to maintain appropriate records to support conflict assessments (including the basis upon which the firm has reached its conflict decisions). ~~Our proposals in relation to~~ The revised record keeping ~~set out~~ requirements for sponsors published in CP12/25 ~~2,~~ ~~sections3.31 – 3.35~~ are relevant here.

****

~~Sponsor's conflicts declaration~~

~~The Listing Rules require an issuer or new applicant to appoint a sponsor whenever it undertakes any of the transactions described in LR 8.2. When the sponsor firm is appointed to act on behalf of the issuer or new applicant, the sponsor firm must provide written confirmation to the UKLA that it is independent of the issuer by way of a Conflicts Declaration.~~

~~LR 8.7.12 requires the sponsor to submit a completed Conflicts Declaration to us with the first draft of a document. The confirmation should be signed by duly authorised officer and a duly authorised compliance officer who must separately confirm that the information on the form is accurate and complete.~~

~~It is of vital importance that, from the outset of a transaction, a sponsor is satisfied that it is able to act for an issuer or new applicant without being in breach of LR 8.3.7AG – LR 8.3.12G, and therefore the declaration must come in at the start of the UKLA's vetting process.~~

Sponsors: Regular review and annual confirmation - UKLA/TN/702.1
Rule: LR 8

****

Please note that ~~we are proposing~~ changes to the annual confirmation process ~~which are set out in Quarterly Consultation Paper No. 33 (CP 12/11)~~ for sponsors were published in Handbook Notice 123. These changes came into force on 1 October 2012.

Sponsors: Creation and maintenance of records - UKLA/TN/703.1
Rule: LR 8

****

~~Please note that the record-keeping requirements for sponsors set out in CP12/2, sections 3.31 – 3.35 will be effective 31 December 2012.~~

Please note that we published changes to the record-keeping requirements for sponsors in CP12/25. These new requirements come into force on 31 December 2012.

The Sponsor's role on working capital confirmations - UKLA/TN/704
Rule: LR 8

****

~~Please note that we have proposed clarification of the record-keeping requirements for sponsors in CP12/2, sections 3.31 – 3.35.~~

Please note that we published changes to the record-keeping requirements for sponsors in CP12/25. These new requirements come into force on 31 December 2012.

Sponsors: uncertain market conditions - UKLA/TN/705.1
Rule: LR 8

Sponsors: Innovative structures and schemes - UKLA/TN/706.1
Rule: LR 8

Sponsors who are part of an investment management group - UKLA/TN/707.
Rule: LR 8; LR 11; LR 15

Agreements between an issuer with a premium listing of equity shares under LR 15 and its sponsor firm will be treated as related party transactions under the Listing Rules if the issuer's sponsor forms part of its investment manager's statutory group. For example, a placing arrangement entered into between an issuer and its sponsor as part of a fundraising are deemed related party transactions if the sponsor belongs to the same group as the issuer's investment manager.

Sponsor's obligations on financial position and prospects procedures - UKLA/TN/708.1
Rule: LR 8

****

The meaning of 'established'

~~The underlying aim is that a company must have~~ Listing Principle 2 requires a premium listed company to have the necessary procedures, systems and controls in place to enable it to meet its obligations ~~under the Listing Rules and the Disclosure and Transparency Rules~~ from the outset, i.e. from the point it becomes a listed company. ~~This is set out in Listing Principle 2.~~ These include those procedures contemplated by LR8.4.2R(4). While we would accept that it is possible, at the time the declaration is given, that not all necessary procedures will have been operated, we do expect them to have been designed ~~and put in place~~, approved and communicated to those responsible for their implementation and use at the point of admission to the Official List. Furthermore, the applicant must have committed to implement those procedures on a timescale that will ensure that the information required to make proper judgments on the financial position and prospects of the applicant will be generated as and when required by the directors.

The sponsor's role
****

A sponsor should be able to demonstrate that a systematic process has taken place in order to come to a reasonable opinion, after having made due and careful enquiry, that all necessary procedures are designed and in place at admission. For this purpose sponsors may wish to carry out an *analysis* in the context of the directors' regulatory obligations, which identifies the necessary procedures that should be in place at admission to generate the information required to make proper judgments on financial position and prospects, the quality and extent of those procedures that are already in place and whether there are any gaps. Where there are gaps, steps should be taken to ensure that necessary procedures are designed and in place before admission. Furthermore, we would not expect a sponsor to submit its declaration under LR 8.4.2R(4) without a new applicant having formally documented, approved and appropriately communicated ~~its established~~ those procedures ~~to all those to whom the~~

~~procedures may apply at the company~~ that it has committed to implement on a timely basis.

While we are aware that it is customary for sponsors to rely upon reporting accountants to assist them when discharging their obligations, we recognise that the scope of a reporting accountant's engagement and its deliverables will vary, reflecting the fact that these are ultimately private contractual matters between the reporting accountant, new applicant and sponsor. Although the reporting accountant's involvement may vary, we would expect to see clear records to demonstrate a sponsor's own enquiries, challenge and action at all stages of the engagement. This is particularly so when defining the scope of the reporting accountant's work and reviewing the reporting accountant's observations and recommendations in order to identify which procedures should be designed and in place before admission. Please note ~~that we have proposed clarification of~~ the revised record-keeping requirements for sponsors published in CP12/~~02, sections 3.31 – 3.35~~ 25 are relevant here.

****