FINANCIAL CONDUCT AUTHORITY

Review of the Effectiveness of Primary Markets: Enhancements to the Listing Regime

Policy Statement
PS17/22

October 2017

This relates to

Consultation Paper 17/4 which is available on our website at www.fca.org.uk/publications

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1 Overview

Introduction

1.1 In February 2017, we published CP17/4: Review of the Effectiveness of Primary Markets: Enhancements to the Listing Regime.[1] We proposed a number of enhancements to the Listing Rules to improve and clarify aspects of the rules, in particular in those areas where we often receive requests for individual guidance, or where our stakeholders have frequently suggested enhancements should be made.

1.2 The proposals received positive feedback, and this Policy Statement sets out final rules in line with the original proposals.

Who does this affect?

1.3 This Policy Statement is of interest to:

- listed companies and companies which may wish to list in the future
- advisers to listed companies and to companies applying to become listed companies, such as sponsors and legal advisers
- those investing or dealing in listed companies

Is this of interest to consumers?

1.4 This Policy Statement may be of interest to consumers who deal and invest in UK-listed shares, either directly or through institutions. It will also be of interest to issuers in their capacity as users of sponsor services.

Context

1.5 In CP17/4 we consulted on changes to:

- Chapter 6 of the Listing Rules, improving the clarity of eligibility requirements for new applicants seeking a premium listing, and removing an implication that working capital statement requirements are routinely waived
- the concessionary routes to premium listing for certain types of applicants

1 CP17/4 – www.fca.org.uk/publication/consultation/cp17-04.pdf

- rules on classifying transactions by premium listed issuers, allowing certain types of transactions that would otherwise be classified as a Class 1 transaction, not to be classified as Class 1 – consequently removing the need to comply with the additional requirements, including shareholder approval – without prior consultation with the FCA

- our guidance in the case of a reverse takeover, to remove the presumption of insufficient information which may lead to a suspension.

  The proposed changes were prompted by our own observations that market participants have experienced difficulties in interpreting the current drafting of the Listing Rules, and from feedback that enhancements could be made to the regulatory framework.

1.6 Today we also publish another two documents on our review of primary capital markets. One is a Feedback Statement (FS17/3)[2] that provides an overview of the feedback received in response to Discussion Paper DP17/2[3] on effectiveness of primary markets, published at the same time as CP17/4. The other is a Policy Statement (PS17/23[4]) that relates to the initial public offering (IPO) process, and seeks to improve the range, quality and timeliness of information that is made available to investors during the process.

Summary of feedback and our response

1.7 We received 17 responses to the consultation from a wide range of stakeholders including investor groups, listed companies, advisers to listed companies and other wholesale financial markets groups. Overall, respondents were supportive of the proposals, therefore, we have finalised the rules as consulted on, with a couple of minor amendments to reflect their feedback.

Next steps

1.8 The rules will take effect on 1 January 2018.

What do you need to do next?

1.9 Listed companies, and advisers to listed companies, should familiarise themselves with the new requirements.

1.10 Companies seeking admission to premium listing after 1 January 2018 should prepare any submission regarding their eligibility on the basis of the new requirements, as presented in this PS.

1.11 Individual guidance on the application of the new rules can be obtained by contacting the UKLA helpdesk or submitting a request in writing, as explained on our website.

2 FS17/3 – www.fca.org.uk/publication/feedback/fs17-03.pdf
3 DP17/2 – www.fca.org.uk/publication/discussion/dp17-02.pdf
4 PS17/23 – www.fca.org.uk/publication/policy/ps17-23.pdf

Equality and diversity considerations

1.12 We have considered the equality and diversity issues that may arise from the decisions made in this PS.

1.13 We do not think that the policy approaches in this PS adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

2 Our response to consultation feedback

2.1 In this chapter we provide details of the feedback received on the proposals presented in CP17/4, which fall into four areas:

- clarifications to Chapter 6 of the Listing Rules
- concessionary routes to premium listing
- classifying transactions for premium listed issuers
- suspension of listing for reverse takeovers

2.2 We asked questions under each of these four areas. Our responses to the feedback received, along with other issues raised, are set out below.

Clarifications to Chapter 6 of the Listing Rules

2.3 In Chapter 2 of CP 17/4 we suggested reordering the requirements for applicants to premium listing set out in Chapter 6 of the Listing Rules, and amending certain provisions to simplify and clarify them. We also proposed updating cross-references to Chapter 6 throughout the remainder of the Listing Rules and in the FEES sourcebook.

2.4 We suggested splitting the existing independence provision (in LR 6.1.4R), which requires a company applying for a premium listing to have an independent business and to have certain arrangements in place if it has a controlling shareholder, into three distinct provisions. The split was not intended to change the requirements, but to set out more clearly what an applicant has to demonstrate to meet the criteria. Most respondents either had no comments or were supportive of the proposed changes.

2.5 We also proposed redrafting the requirement to have a financial track record covering 75% of the applicant's business, and the related rules about the financial information which has to be presented by the applicant. We received a small number of alternative drafting suggestions, but most respondents were supportive of the proposed rules as presented.

2.6 The current Chapter 6 contains explicit references to our ability to waive the requirements for a clean working capital statement at the point of listing, and to our ability to waive the financial track record requirements. We proposed removing these explicit references since, in practice, we do not waive these requirements. Several respondents queried whether this deletion should be reconsidered to preserve the flexibility to waive the requirements, in particular in the current macro-economic context.

2.7 To help market participants interpret the revised eligibility requirements, we also consulted on new and amended technical notes. Most respondents agreed with the contents of the proposed technical notes.

Our response

In light of the feedback received we have finalised the rules as presented for consultation. We have made a minor amendment to the drafting of the new LR 6.2.3R(3), in response to a request for clarification from a respondent. This is to ensure that LR 6.2.3R(3) requires the acquisition accounts, when aggregated with the historical financial information, to represent 75% of the business.

We have also made minor drafting amendments to LR 8.4.1R, to amend the cross-references to Chapter 6 and amended the heading to reflect the new terminology being used in Chapter 6.

We considered the alternative drafting suggestions for the financial track record requirements but, on balance, concluded that the existing drafting achieves the intended outcomes.

We note the comments on the removal of references to our waiver powers. The removal of these references does not mean our waiver power has been removed (see LR 1.2.1R). It would thus still be possible for a new applicant to seek a waiver. However, past experience suggests this would be highly unusual. The waiver power references date from a period when Chapter 6 also applied to further issues, when a qualified working capital statement may occasionally be required. As we have not given a waiver of these requirements at IPO in the past decade, we consider that highlighting the possibility of a waiver is misleading. We have, therefore, proceeded with the removal of the references in Chapter 6.

The technical notes included in CP17/4 have been finalised as presented in the consultation, except for one minor amendment to clarify that the independence requirements set out in LR 6 are not necessarily incompatible with the PRA's ring-fencing rules.

Concessionary routes to premium listing

2.8 In Chapter 3 of CP17/4, we consulted on modified routes to premium listing for certain types of applicants. We proposed small amendments to the existing concessionary route for mineral companies and scientific research-based companies, arising from the reordering and amendment of Chapter 6 of the Listing Rules.

2.9 We also proposed a new concessionary route for some property companies, to reflect that, in assessing the applicant, investors focus on the property valuation report rather than the issuer's historic financial information.

2.10 New and amended technical notes were also proposed to help interpret the rules.

2.11 Feedback on the proposals was supportive.

Our response

In light of the positive feedback received, we have finalised the rules as presented.

Classifying transactions for premium listed issuers

2.12 In Chapter 4 of CP17/4 we proposed two changes to the profits test set out in LR10 Annex 1:

- that premium listed issuers will be permitted to disregard an anomalous profits test result of 25% or more when all the other applicable class test results are below 5%, without consulting us in advance
- that premium listed issuers will be permitted in certain limited circumstances to make specified adjustments to the figures used in calculating the profits test, if the transaction's classification would otherwise be anomalous and above 25%, without consulting us in advance

2.13 We also proposed moving some guidance provisions on adjustments to the figures used to classify assets and profits into a Handbook rule. This is currently in a separate Technical Note as guidance (UKLA/TN/302.1).

2.14 All but one of the respondents agreed with our proposal to permit premium listed issuers to disregard an anomalous profit test when the result is 25% or more and the other class test results are below 5% without first consulting us.

2.15 A small number of respondents suggested that this proposal could also be applied to Class 2 transactions – i.e. when the anomalous profits test result is between 5% and 25% and the other class test results are below 5%. Similarly, two respondents suggested allowing issuers, in consultation with their sponsor, to classify as Class 2 a transaction where the anomalous profits test result is 25% or more and the other class test results are between 5% and 25%.

2.16 Some respondents suggested we provide further guidance to help issuers and advisers decide if a profits test is "anomalous", as the meaning of this term is open to interpretation.

2.17 Most respondents also supported our proposal to allow premium listed issuers, in certain limited circumstances, to make specified adjustments to the profit figures used in the profits test without consulting us first.

2.18 One respondent queried why these adjustments can only be applied in cases where the profits test result is anomalous and 25% or more, and not in other circumstances such as where applying the adjustments would move a Class 2 transaction to unclassified.

2.19 We received six responses to our question on other possible enhancements to the calculation of the profits test. Each respondent had a different suggestion, so we will analyse the proposals separately and decide if we will consult on them in the future.

2.20 Respondents did not agree on alternative profit measures. Some suggested using operating profit, earnings before interest, tax, depreciation and amortisation (EBITDA) and earnings before interest and tax (EBIT). Some thought there are no other measures we should use, or were against the use of non-GAAP measures. One respondent said that any profit measure is likely to suffer from the same shortcomings as using profits before tax (PBT), with anomalous results in class tests inevitable, despite rule changes.

2.21 All respondents agreed with the proposal to move into a Handbook rule the provisions on adjustments to the figures used to classify assets and profits that are currently included in a separate Technical Note (UKLA/TN/302.1) as guidance.

Our response

Extending the proposals

When considering these proposals, we decided to restrict them to situations where the profits test result is 25% or more. Under LR 8.2.2R, a premium listed issuer planning a transaction of this size must obtain sponsor's guidance on the application of the relevant rules. Extending the proposals to smaller transactions would mean also extending the sponsor requirements in LR 8.2.2R. Based on the overall feedback and our experience of past guidance requests in this area, we do not consider it is proportionate to extend the sponsor regime in this way. Therefore, we are not taking this suggestion forward for now.

We also considered amending our rules to enable issuers, in consultation with their sponsor, to classify a transaction as Class 2 where the anomalous profits test result is 25% or above and the other test results are between 5% and 25%. Similarly we considered whether to allow issuers to make the adjustments – set out in the new LR 10 Annex 1 13R (2) – to the profits test when the result is anomalous and below 25%. Based on our experience of considering the application of these requirements, our view is that concluding that the profits test result is anomalous becomes more difficult the closer the result is to the result of the other class tests. Therefore, we have decided to not make changes to the thresholds proposed in CP17/4 and have finalised the rules as presented.

Guidance on "anomalous"

Some respondents asked for further guidance on the meaning of "anomalous". We think, based on our interactions with sponsors to date, that sponsors are familiar with making judgements on whether the result of any class test is anomalous, as they are already making that assessment under LR10 Annex 1 paragraph 10G. Therefore, at this stage we are not proposing to issue further guidance on this. We will continue to monitor the situation when the new requirements are introduced and we may produce further guidance on this topic should we identify the need in the future.

Two respondents thought that sponsors may be pressurised to agree that a profits test result is anomalous, as the consequence of this decision would be to categorise a transaction as Class 2 – instead of

Class 1 – and remove the need for additional requirements, including shareholder approval. We consider that sponsors are familiar with making judgements of this nature in the context of the overall sponsor regime, and we expect sponsors to be able to resist such pressure. In any event, although we have removed the requirement to consult us before coming to a conclusion on an anomalous profits test result, sponsors can, as now, seek our guidance if in doubt as to how any of the proposed rules or guidance applies in a particular situation.

New rules

As there was no agreement on which alternative profit measures to use instead of, or in conjunction with, PBT, we are not planning to make further changes to these rules at this stage. Therefore, we have finalised them as presented.

Feedback was positive on the proposal to move into a Handbook rule certain adjustments to the figures used to classify assets and profits that are currently included in a separate Technical Note (UKLA/TN/302.1) as guidance, and we have finalised the rules as proposed.

Given the positive feedback received, we have also finalised the rules and Technical Note 302.2 as presented.

Suspensions of listing for reverse takeovers

2.22 In Chapter 5 of CP17/4 we proposed to remove the guidance for certain listed issuers to provide us, and the market, with specific information in order to ensure that we do not suspend the listing of the company's securities upon the leak or announcement of a reverse takeover.

2.23 For shell companies – i.e. issuers whose assets consist wholly or predominantly of cash or short dated securities, or whose predominant objective is to undertake an acquisition or a merger – we proposed to keep the current guidance that there is a rebuttable presumption of insufficient information upon leak or announcement of a reverse takeover, which may lead to a suspension ("rebuttable presumption of suspension").

2.24 The majority of respondents agreed with our proposals, with only one respondent not in favour of removing the rebuttable presumption of suspension.

2.25 One respondent suggested reverting back to having different reverse takeover thresholds based on the percentage result of the class tests – e.g. 100%-125%, above 125% – and imposing a presumption of suspension on transactions that meet the higher threshold, capturing not only shell companies, but also large acquisitions by other issuers.

2.26 Another respondent suggested that, when a company is intending to acquire a much larger private overseas target and there is no information readily accessible to investors, it would be appropriate for early consultation with the FCA to determine

whether, in event of a leak, a suspension would be necessary or could be avoided by publishing additional information.

2.27 One respondent suggested that an alternative to retaining the presumption of suspension for shell companies could be to require shell companies to put the acquisition to a shareholder vote before they can proceed to completion.

Our response

We consider that, despite the percentage result of class tests, proper price formation can take place based on the information disclosed as part of issuers' obligations under MAR, and the market can operate smoothly without the presumption of suspension even when the class tests result is over 125%. Nevertheless, issuers will still have the option to consult with the FCA in accordance with LR 1.2.5G.

We will consider the suggestion of requiring shell companies to put acquisitions to a shareholder vote before they can proceed to completion. We will include this as part of the broader work around the positioning of the standard segment included in DP16/2.

Given the positive feedback received, we have finalised the rules as presented.

Annex 1
List of non-confidential respondents

Association for Financial Markets in Europe (AFME)

City of London Law Society and the Law Society of England and Wales

Deloitte LLP

Ernst & Young LLP

GC100

The Investment Association

The Institute of Chartered Accountants in England and Wales (ICAEW)

Institute of Chartered Secretaries and Administrators (ICSA)

KPMG LLP

Local Authority Pension Fund Forum

London Stock Exchange Group

PricewaterhouseCoopers LLP

The Quoted Companies Alliance (QCA)

Urban&Civic plc

Virgin Money plc

Annex 2
Finalised technical notes

These technical notes will come into force on 1 January 2018

FINANCIAL CONDUCT AUTHORITY

UKLA Technical Note

Eligibility for premium listing – financial information and the track record requirements

Financial information

As per LR 6.2.1R and LR 6.2.4R, an applicant for premium listing must present three years of audited financial information.

This financial information must represent at least 75% of the applicant's business, and must be presented in the issuer's GAAP and accounting policies.

How to calculate the 75% requirements

The 75% requirement is intended to ensure that audited financial information covering at least 75% of the business to be listed is presented to investors. Where an applicant has acquired other companies during the relevant period, additional financial information relating to those acquired entities may be needed to meet this requirement.

The relative size of the acquired businesses needs to be assessed. The class tests in Chapter 10 of the Listing Rules provide a useful starting point, which can be supplemented or replaced by other metrics which provide a more accurate assessment of the relative size of the acquired businesses.

The tests should be performed using the latest available figures for the business that has been acquired against the enlarged group as it will be listed. However, where the acquired entities can no longer be separately identified in the enlarged group, class tests can be used which reflect the size of the acquired business at the time of its acquisition.

Acquisitions need to be aggregated

It is also necessary to consider whether there are any gaps in the financial information presented when considering whether it is sufficient for establishing the eligibility of the business to be listed. For example, where a company acquired by the applicant had a different financial year end from the applicant itself, there may be a gap between the date of the pre-acquisition financial information and the point at which the entity had been acquired, for which additional financial information should be presented.

The financial information requirements are intended to ensure that financial information for at least 75% of the business to be listed is presented. Where an issuer has acquired assets (rather than a business), additional financial information will not normally be required. However we will consider the substance of the transaction, rather than its legal form, when assessing whether additional financial information is required.

When we may accept modifications or qualifications

The three years of financial information must be audited and the last year must be reported on without modification or qualification.

An issuer may be eligible where a going concern modification in relation to the final year of its financial information is cured at the time of listing, for example where there is a concurrent fundraising used to repay debt that would otherwise fall due.

Track record

An applicant should be able to demonstrate a track record that puts prospective investors in a position to make an informed assessment of the business that is to be listed (LR 6.3.1R).

In some cases an applicant will have three years of financial information which does not properly reflect the applicant's business, as the information does not demonstrate a revenue earning record that is representative of the business to be listed. In such cases the applicant does not have a compliant financial track record.

LR 6.3.2G sets out five factors that may indicate that a track record is not representative. These factors will be especially relevant for companies that are very early stage, or that have otherwise changed significantly, such that the financial information does not allow a meaningful assessment of the future prospects of the business for which listing is sought. This may be the case where a business has changed fundamentally during the track record period by exiting one industry and entering an unrelated one, or where a business is reliant upon products or lines of business that have just been, or have yet to be, developed.

A consistent record of losses can also indicate that a company may be at too early a stage of development. However, we will also take account of the impact of financing structures that may be replaced ahead of IPO, in order to assess the genuine maturity of the underlying business.

Significant investment may also indicate that a company is at a relatively early stage, though again we will consider the overall maturity of the business.

It is not necessarily the case that a high valuation multiple makes a company ineligible. However, a high multiple may be evidence that the company's valuation is based on future changes in the business that are not related to the information presented in the track record (for example where a company is in its infancy, and is only just about to scale up its operation, and is hoping to experience rapid growth).

FINANCIAL CONDUCT AUTHORITY

UKLA Technical Note

The independent business requirements for companies applying for premium listing – interpretation of LR 6.4, LR 6.5 and LR 6.6

This Technical Note is intended to provide a non-exhaustive guide to cases where we are required to consider an applicant's ability to meet the requirement for an independent business.

We also discuss the requirement for an applicant to control its business, and situations where there is a controlling shareholder.

General requirement to carry on an independent business (LR 6.4)

The independent business rule in LR 6.4.1R is intended to ensure that a premium listed issuer is operating a meaningful business in its own right, and does not for example simply exist as part of a wider enterprise.

The vast majority of applicants to premium listing will clearly demonstrate an independent business. However, in a small number of cases, further careful enquiry will be required. Whilst every applicant's circumstances are different, the circumstances in which such further enquiry might be necessary include where:

- an applicant has been carved out of a wider group, and which has retained close ties with its former parent. Such ties may take the form of extensive services being provided by the former parent, beyond normal outsourcing arrangements or Transitional Services Agreements. Particular regard should be had to circumstances where an applicant is required to source those services from its parent, or may not have control over information that is essential to decision making at the applicant's level.
- key contracts are contingent on the relationship with the parent, or where the applicant's business is predominantly generated through the parent group. This kind of dependency might also exist with a single party outside the applicant's group (beyond a normal key customer or supplier relationship), to the extent that the business could not survive without the relationship.
- an applicant cannot access financing other than through the parent group. This is different from circumstances where an applicant has chosen to finance itself in a certain way for commercial reasons. The evidential threshold here will clearly be applicant specific. A profitable, credit-worthy applicant may find it much easier to

demonstrate that its financing arrangements are based on commercial decision-making rather than reliance on a parent. The guidance relating to financing being obtained only from one person is not intended to apply to situations where an issuer has finance on normal commercial terms from an unrelated financial institution.

- a business is based on an applicant's rights as a franchisee under a franchise agreement. Often franchise agreements will be entirely acceptable, as the applicant can control the day to day running and the key strategic choices of its business. In these circumstances we will seek to understand the details of a franchise agreement to form a view on a specific applicant. This will include what control the issuer has over future changes to the terms of the agreement, and whether there is a risk of abrupt loss of value in the business at the discretion of the franchisor.

- constitutional arrangements give a third party control over voting rights that would normally be conferred on shareholders. Such arrangements are often in place in order to circumvent foreign ownership restrictions. The requirement for an issuer to be able to implement its business strategy is not meant to prohibit premium listed issuers from having majority shareholders who might be expected to use their voting rights and rights of appointment to significantly influence an issuer's strategy.

Considering continuing obligations, there may be circumstances in a rescue situation where an issuer can only access finance from a controlling shareholder. This does not mean that an issuer would automatically be unable to meet the continuing obligations set out in LR 9.2.2ABR - we would clearly need to consider the circumstances of the business in the round.

Control of business (LR 6.6)

The control of business rule in LR 6.6.1R is intended to prevent the listing of corporate structures that do not provide an applicant's Board or shareholders with effective control over the listed group.

Without such control, the ability of the issuer to keep the market informed of price sensitive information on a timely and on an ongoing basis may be compromised. The shareholders of the issuer may also be unable to avail themselves of the protections offered by Chapters 10 and 11, or to determine the listed group's strategy.

To demonstrate compliance with this requirement, an issuer should have positive control over the majority its business. However, there may be circumstances where an issuer's eligibility is in doubt regardless of whether the non-controlled parts of the issuer's group make up the majority of that group. Conversely, an issuer with direct control over only a minority of the group's businesses may still be eligible for listing. We are therefore seeking to engage in a broader principles-based assessment. However, we are likely to consider a structure that consists wholly of non-controlled stakes as ineligible for premium listing.

The circumstances where particular consideration should be given to the issuer's ability to control its business include circumstances where:

- a predominant part of an issuer's business is held through minority stakes or joint venture arrangements
- an issuer owns a majority stake in its subsidiaries, but a third party has special rights that allow it to control the strategy of the underlying business, for example, because of a legacy relationship with the underlying business

An issuer may have to use assets as security for loans provided by genuine third party finance providers. Such scenarios are not intended to be captured by the control of business provisions.

Applicants required to comply with the PRA rules for ring-fenced bodies are able to satisfy the requirements of LR 6.6.1R providing they can still demonstrate effective control over the business to be listed.

Relationship with the controlling shareholder (LR 6.5)

LR 6.5.3G provides a number of indicators of the circumstances in which an applicant may be unable to demonstrate sufficient independence from a controlling shareholder. One of these circumstances is where a controlling shareholder is able to influence the operations of the issuer in a way which subverts its normal governance processes.

Examples of circumstances where this might be the case include:

- using financing or other business arrangements to unduly influence the strategy of the company
- using significant stakes in subsidiaries of the listed company to exert indirect control over the group as a whole
- installing staff with familial or other relationships in key roles to gain day-to-day control

Where a controlling shareholder has a majority stake in the issuer, it will necessarily be the case that the controlling shareholder will have significant practical control through the normal exercise of its voting rights and its ability to appoint directors to the Board of the listed company.

The controlling shareholder provisions do not seek to limit the controlling shareholder's ability to exercise its rights in this way, and do not seek to vest disproportionate control in minority shareholders.

A controlling shareholder should therefore generally be able to do the following, in the absence of other factors, without compromising the independence of the listed issuer:

- accept or make a takeover offer, or propose a scheme of arrangement to effect a takeover offer.
- give an irrevocable undertaking to a third party in connection with a takeover offer.
- propose a resolution for the company to pay a dividend.

FINANCIAL CONDUCT AUTHORITY

UKLA Technical Note

Listing Principle 2 Dealing with the FCA in an open and cooperative manner

LR 7.2.1 R and LR 1.2.5 G

LP 2 requires issuers to deal with the FCA in an open and cooperative manner. This obligation is broader than simply requiring issuers to ensure that they deal with us in an open and cooperative manner on ongoing matters. In particular, LP 2 requires issuers to approach us in relation to significant transactions. However, it is not necessary for issuers to contact us in relation to all transactions. The following provides an indication of the factors that should be considered and examples of transactions that could be considered significant.

It is not possible to describe all the factors that should be taken into account when trying to ascertain whether to contact us. However, the following considerations are likely to be relevant.

- **Is there a role for the FCA?** Issuers should consider the need for timely disclosure to us in circumstances where we have a regulatory role to perform before the transaction can proceed. Examples of where we will have a role to play include providing guidance on the interpretation of a rule, waiving or modifying the application of a rule, or making a decision on whether a suspension is appropriate.
- **Is the decision time-critical?** Where an issuer is aware that a decision will need to be made by a certain point in time – for example, making an announcement before the market opens – issuers should ensure that they contact us well in advance of the event.
- Does the timing of contact allow for us to disagree with the proposed approach?
- Issuers should ensure that they allow, within their timetable, sufficient time for us to consider the substantive matter presented and to form a view. This is particularly important in circumstances where the timetable cannot be delayed if we disagree with an issuer's position, due to an immovable event, such as insolvency or a need for a suspension before the market opens.

Based on the above considerations, examples of the types of transactions where we would expect an issuer to carefully consider the timing of initial contact with us include reverse takeovers where this contact is required under LR 5.6.6R, and class 1 disposals by issuers in severe financial distress. However, a reverse takeover by a premium listed issuer or routine class 1 transaction with a limited role for us before the submission of the circular is unlikely to require early contact.

In circumstances where an issuer is unclear on whether LP 2 applies, LR 1.2.5G offers general guidance, highlighting that an issuer should consult the FCA 'at the earliest possible stage' if there is any doubt about how a Listing Rule applies in a particular situation.

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UKLA Technical Note

Classification tests

LR 10.1.3R and LR 10 Annex 1

Classifying joint venture arrangements (LR 10.1.3R)

When a listed issuer with a premium listing enters into a joint venture, it must classify this transaction under LR 10. We would expect the issuer to classify both sides to the transaction, so that both the disposal into the joint venture and the acquisition of an interest in the joint venture are classified.

To illustrate the approach, here is a basic example:

> Listed issuer (L) intends to set up a joint venture with partner (P). Both L and P will transfer a subsidiary to a new company (newco) in return for a 50% interest in newco. The disposal of a subsidiary to newco should be classified by L in the normal way by applying the profits, gross assets and consideration to market capitalisation tests. As the disposal will result in deconsolidating the subsidiary from L's accounts, the profits and gross assets tests must be run on a 100% basis.
>
> Separately, L should also classify the acquisition of a 50% interest in newco. If this interest will not be consolidated into L's accounts, the only tests applicable would be the gross assets test and the consideration to market capitalisation test.

We recognise that this is a simple example and, in reality, joint venture arrangements can be complex. The classification will depend on the facts of each case, including the value added by each partner and further funding commitments etc. As such, we would urge issuers and their advisers to contact us to discuss the correct application of the class tests to their specific transaction.

Please note that, as this is effectively one transaction, we would not expect these two sets of class tests to be aggregated, but the highest result from the tests will determine the overall classification of the transaction.

Classifying company/assets being acquired out of administration (LR 10 Annex 1)

It is often the case, where a business is acquired from liquidators or out of administration, that the company has not prepared accounts for some time and it may be unclear whether the issuer is acquiring a business or just assets. The issuer normally faces two problems: what numbers to use for the purposes of the class tests and which of the various class tests are relevant.

Relevant class tests depend on what the company is acquiring. If the issuer is acquiring a business then all tests are relevant. However, it is less clear when the issuer acquires assets, as often with an asset acquisition the profits test would not be relevant as there is not a relevant profit stream to measure.

The issuer and its advisers may need to consider the type of assets being acquired and whether or not on a look-through basis the issuer has effectively acquired the business. Often, for tax reasons, sales are structured as asset purchases despite the intention being for the issuer to operate the newly acquired entity as a business. In such circumstances it may be appropriate for the transaction to be treated as an acquisition of a business. Indications that the company is acquiring a business might be, for example, employee transfer and the transfer of contracts and licences. However, this is not an exhaustive list and we would encourage issuers to fully consider the substance and commercial reality of the acquisition, regardless of the strict legal form.

With regards to the financials to be used as a basis for the class tests, issuers should use figures obtained from the most recent set of accounts available for the target. Where these are significantly out of date, we would be happy to discuss alternative sources and the appropriateness of the tests where the results are considered anomalous. However, advisers are reminded that we would often consider the best indicator of the size of the business to be the accounts immediately before the company going into administration. In addition these accounts are often audited and considered to be more reliable than management information.

We would suggest that in circumstances where issuers are acquiring businesses or assets out of administration that they contact us as early as possible to discuss the issue.

Assessing whether an item is exceptional a one-off cost for the profits test (LR 10 Annex 1 4R)

Paragraph 4R in LR 10 Annex 1 sets out the methodology to calculate the profits test and clearly states that profits mean profits after deducting all charges except tax (profits before tax or PBT). Therefore generally the figure should be used when calculating the profits test. Therefore, adjusting the profit figure used for calculating the profits test by removing one-off costs is a modification of the applicable Listing Rule. As such, issuers and their advisers should always consult us before relying on such an adjusted figure except where the Listing Rules expressly state that they are not required to do so.

To help issuers and their advisers, including sponsor firms, we set out below our approach to assessing whether the profit figure used to calculate the profits test may be adjusted. Premium listed issuers and their sponsor should also take these matters into consideration when deciding whether the issuer may rely on the Listing Rules' concession to modify the figures used to calculate the profits test in paragraph 13R in LR 10 Annex 1 without having to consult us first. Paragraph 13R of LR 10 Annex

1 permits a premium listed issuer to make certain adjustments to the profits figure without prior consultation with us. Issuers relying on this concession will need to obtain guidance from a sponsor under LR 8.2.2R because the transaction is or could amount to a class 1 or reverse takeover.

When considering whether to accept arguments that one-off costs should be excluded from profits, we make our decision on a case-by-case basis and take into account the specific circumstances of the issuer. Our decision-making process is informed by an understanding of whether or not the item in question is a genuine one-off cost and the sponsor's view on whether, under the circumstances, the item should be treated as such.

In assessing whether the item is a genuine one-off cost, we may consider how the item has been presented in the accounts. However, just because an item has been presented as a one-off cost in an issuer's accounts does not mean we will agree that it should be adjusted for in the profits test.

We will consider if the cost appeared in previous profit and loss accounts and whether there will be a similar charge in the following year's profit and loss account. We are unlikely to consider items that are a reoccurring feature of an issuer's business or are in the ordinary course of business as a genuine one off even if they appear in the issuer's accounts as an exceptional or extraordinary item. For this reason, we are very unlikely to accept arguments that it is appropriate to adjust for goodwill and impairment charges. If an issuer wishes to adjust for items associated with restructuring they, and where applicable their sponsor, will need to satisfy themselves that the cost is genuinely a 'one off' and not part of an ongoing restructuring strategy. Costs incurred in a restructuring that spans more than one financial period may not be one-off.

Sponsors should address each of the above issues when making a written query about the appropriate measure of profit, particularly when asking us to agree that a transaction is a class 2 transaction that would be a class 1 transaction if PBT were the profit figure used.

Waiving the consideration to market capitalisation test (LR 10 Annex 1 paragraph 5R)

We have regarded a company's market capitalisation as significant in assessing the size and importance of a particular transaction. We are generally not minded to allow enterprise value to be used as a substitute test – the key reasons are:

a. the market capitalisation test is the primary indicator of a listed company's size as at the date of the transaction;

b. it is the only test which does not use historic financial information;

c. if the company was to be sold or become the subject of a takeover offer, the market capitalisation is the starting point for valuation; and

d. arguments that market capitalisation is anomalous are inherently flawed as, if the

market is valuing companies incorrectly, this would suggest full information is not in the market.

We will continue to assess each request as it arises; however, we believe that our general approach continues to be appropriate.

Class tests – figures used to classify assets and profits (LR 10 Annex 1 paragraph 8R(3))

LR 10 Annex 1 paragraph 8R(3) states the class test numbers must be adjusted, where applicable, for transactions completed during the relevant financial period (i.e. the period used as the basis of calculation for the class tests) and for subsequent completed transactions for the issuer and the target. These adjustments are required for transactions 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.

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 and B has a year end of 31 March 2012. A completed a class 2 acquisition of target C, after its year end, in February 2012. 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 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. B's year-end balance sheet will already reflect this disposal and no further adjustment needs to be made.

However, if B had acquired E before its year end those profits for E that have already been consolidated should be subtracted from B's figures and the latest audited 12 months profits for E should be added back. B's latest balance sheet will already reflect this acquisition and no further adjustment needs to be made.

FINANCIAL CONDUCT AUTHORITY

UKLA Technical Note

Cash shells and special purpose acquisition companies (SPACs)

LR 5; LR 6; LR 14 and LR 7.2.1R

The terms 'cash shell' and 'SPAC' are not defined in the Listing Rules. However, we note the following points about how these terms are broadly understood, how these types of issuers meet the eligibility requirements for listing shares and when the listing may be suspended if a reverse takeover is announced or leaked (as cash shells and SPACs will be shell companies under LR 5.6.5AR).

The terms 'cash shell' and 'SPAC'

Cash shells

'Cash shell' is a term often used for companies whose assets consist wholly or predominantly of cash (or potentially short dated securities). A listed issuer may be a cash shell because it has been admitted to the Official List as a commercial company but has subsequently disposed of all or a majority of its assets and currently operates only residual business activities, if any. These types of issuers may have been admitted to the Official List with either a premium listing (pursuant to Chapter 6 of the Listing Rules) or a standard listing (pursuant to Chapter 14 of the Listing Rules). Cash shells may or may not have a strategy to seek an acquisition opportunity or to develop a business as a start-up. So there is some overlap between cash shells and SPACs.

SPACs

We understand the term special purpose acquisition company or 'SPAC' to mean a new company incorporated to identify and acquire a suitable business opportunity or opportunities. It may also be referred to as a 'search fund'.

Its initial funds are usually raised through an IPO on a stock market or through a fundraising undertaken before the IPO. After IPO, its cash resources are used to identify acquisition opportunities, finance the due diligence costs and potentially fund or part fund the acquisition of a suitable business to invest in.

The issuer may have raised significant funds to finance these activities. However, this is not always the case and we note that many such issuers are microcap companies listing with a market capitalisation of around £1 million.

Eligibility for listing

When these types of issuers are listed, they are most typically, but not always, listed under Chapter 14 of the Listing Rules which sets out requirements for the standard listing of shares.

An applicant which is a cash shell or SPAC would not meet the eligibility requirements for premium listing. This is because it would not have an independent business and a financial track record that meets the requirements of LR 6 (additional requirements for premium listing, commercial companies). It would also not normally have a policy of investing its assets to spread investment risk in accordance with the requirements of LR 15 (closed-ended investment funds). A cash shell or SPAC can list under LR 14 provided it is not an 'investment entity' as defined in the Listing Rules (LR 14.1.1R and Glossary).

Cash shells that have previously been admitted to premium listing and remain premium listed should note LR 5.4A.16G which will apply to them. This states that there may be situations where an issuer's business has changed over time so that it no longer meets the requirements of the applicable listing category which it was initially assessed for listing. In those situations, we may consider cancelling the listing of the equity shares or suggest to the issuer that, as an alternative, it applies for the transfer of its listing category.

We therefore encourage such issuers to consider whether to apply to us for their listing to be cancelled, or to transfer to standard listing (LR 14), and to contact us to discuss this.

Reverse takeovers

Listed cash shells and SPACs are caught by the provisions on reverse takeovers that apply to a 'shell company' in LR 5.6.5AR. This is because a shell company is a listed issuer whose assets consists solely or predominantly of cash or short dated securities, or whose predominant purpose or objective is to undertake an acquisition or merger or a series of acquisitions or mergers.

Also, the acquisition by a cash shell or SPAC of a target is a reverse takeover according to the definition in LR 5.6.4R and the related guidance in LR 5.6.5G. In particular, the percentage ratios are likely to be 100% or more because, in applying the class tests, the cash and short dated securities held by the cash shell or SPAC must be excluded in calculating its assets and market capitalisation (paragraph 8R(5) in LR 10 Annex 1). Also, the transaction is likely in substance to result in a fundamental change in the business or a change in board or voting control of the issuer.

The classification of the transaction as a reverse takeover under the Listing Rules is important because a cash shell or SPAC will be subject to the rebuttable presumption that, where a reverse takeover is announced or leaked, there will be insufficient publicly available information in the market that will often lead to the suspension of listing in the context of a reverse takeover. We refer to this as the 'rebuttable presumption

of suspension'. In this case the issuer or, if the issuer is premium listed, its sponsor, is required to contact us as early as possible to discuss whether a suspension is appropriate (before announcing a reverse takeover which has been agreed or is in contemplation) or to request a suspension (where details of the reverse takeover have leaked).

Also, we will generally seek to cancel the listing of an issuer's equity shares when the issuer completes a reverse takeover (LR 5.2.3G).

We discuss these points below.

Suspending listing

We may suspend, with effect from such time as we may determine, the listing of any securities if the smooth operation of the market is, or may be, temporarily jeopardised or it is necessary to protect investors (LR 5.1.1R(1)).

Rebuttable presumption of suspension

The Listing Rules create a rebuttable presumption that certain types of issuer will be suspended upon announcement or leak of a reverse takeover as there will be insufficient publicly available information in the market.

When suspending, we will rely on the general suspension power set out under LR 5. 1.1R(1) which is supported by examples of when we may suspend listing in LR 5.1.2G. These include where it appears to us that the issuer cannot accurately assess its financial position and inform the market accordingly in LR 5.1.2G(3) or there is insufficient information in the market about a proposed transaction in LR 5.1.2G(4).

Although LR 5.1.2G(4) refers only to a 'proposed transaction', we would consider this to refer to situations where information has been announced or leaked in relation to transactions under contemplation, as well as those where the terms have been agreed.

Early engagement on reverse takeovers

LR 5.6.8G highlights that, in the case of a reverse takeover for the types of issuer referred to in LR 5.6.5AR, we will often consider that a suspension will be appropriate, unless we are satisfied that there is sufficient publicly available information about the proposed transaction.

We would like to remind issuers of the need to ensure that they consider Listing Principle 2, which requires issuers to deal with us in an open and co-operative manner, when considering the appropriate time to contact us.

Early engagement with us is particularly important in circumstances where the issuer intends to pursue the transaction or has reached a stage where the transaction can be described as being in contemplation (LR 5.6.7G). A decision to suspend can have a significant market impact and so early engagement, preferably before the point where a reverse transaction can be considered in contemplation, is essential.

Timing of the announcement

LR 5.6.7G sets out examples of when we will generally consider a potential reverse transaction sufficiently advanced to trigger an announcement and that a suspension may be appropriate. However, we know that at times the situation may not be as clear cut as set out in these examples. There may be situations where there has been a purely speculative leak and a potential suspension would be inappropriate.

We also recognise that competitive auction processes are often difficult to fit into this framework, so we are happy to discuss the specifics of each case with issuers or their advisers. In making a decision about whether it is appropriate to consider suspension, we would expect the issuer to apply a similar rationale as they would when considering the announcement requirements under the Market Abuse Regulation (MAR). We would not, for example, expect the issuer to request a suspension where the transaction is too speculative to trigger an announcement under MAR.

Timing of suspension, cancellation and readmission

When a reverse takeover is announced, we may suspend listing if we believe, having considered the information in the market on the target at the time, that there is or may be a disorderly market or it is necessary to protect investors. We will follow this approach in the case of acquisitions by shell companies because our experience is that share prices in these types of issuers can experience a lot of volatility and price spikes around the time of a proposed transaction.

As noted above, LR 5.2.3G makes it clear that we will generally cancel the listing of a company's equity shares when it completes a reverse takeover. UK-regulated markets follow suit and will cancel the admission to trading. So if the issuer wants to remain listed and admitted to trading, it will need to apply to us to be re-admitted to listing as well as making appropriate arrangements with the operator of the relevant market about its readmission to trading.

The application for re-admission to a regulated market is most likely to trigger the requirement for the issuer to publish a further prospectus. We may suspend listing pending publication of that prospectus if we believe, having considered the information in the market on the target at the time, that there is or may be a disorderly market or it is necessary to protect investors. We will follow this approach in the case of acquisitions by a cash shell or SPAC.

The cash shell or SPAC may apply for its enlarged share capital to be listed under LR 6 when it has completed the acquisition. Alternatively, it may wish to apply to be listed under LR 14. We will assess eligibility in the usual way and if re-admitted under LR 6, the usual rules for premium-listed commercial companies will apply.

FINANCIAL CONDUCT AUTHORITY

UKLA Technical Note

Scientific research based companies

The Listing Rules offer a concessionary route to premium listing for scientific research based companies (SRBCs) that would not otherwise be eligible for premium listing under LR 6. In place of having to satisfy the historical financial information requirements in LR 6.2.1R(1) and/or the revenue earning track record requirements in LR 6.3.1R, LR 6.11.2R sets out five specific requirements that SRBCs must meet. The concession requirements seek to balance providing premium listing as an option for SRBCs at an earlier stage of development, in particular pre-revenue, but ensuring that the applicant has a sufficient track record and that the development of an identified product is sufficiently advanced such that commercialisation is a near-term possibility.

This concession was originally introduced into the Listing Rules by the London Stock Exchange in 1993. To date the concession has primarily been relied upon by pharmaceutical companies. However, it is open to companies coming from other sectors if they can fall within the Listing Rule definition of SRBC. Where the applicant or its sponsor have concerns about complying with any of the specific premium listing criteria, including the ability to rely on this particular concession, individual guidance can be obtained on the application of a particular rule in accordance with LR 1.2.5G and Chapter 9 of our Supervision Manual (SUP).

Applicants need to demonstrate an ability to attract funds from sophisticated investors prior to the marketing at the time of listing under LR 6.11.2R(1). 'Sophisticated investor' is not defined in the Listing Rules but when considering this requirement we are looking for the applicant to have attracted investment from institutional investors and occasionally will accept other investors that specialise in this sector. This is on the basis that this is a good indication that due diligence has been completed on the company and institutions have historically been willing to invest. It gives credibility to the applicant's proposition. There is also a question mark over when sophisticated investors will need to have invested in order to meet the requirement that funds must have been attracted 'prior to the marketing at the time of listing'. Pre-IPO fundraisings undertaken before the appointment of a sponsor in accordance with LR 8.2.1R will usually meet this requirement. If an applicant has raised any funds shortly before submitting an eligibility letter, we recommend that this is set out in the eligibility submission.

The requirement for an applicant to have as its primary reason for listing the raising of finance to bring identified products to a stage where they can generate significant revenues under LR 6.11.2R(4) is key to ensuring that SRBCs are sufficiently mature

and are seeking the last injection of capital before earning significant revenue. The financing should primarily be used to fund the final stages of research and development and commercialisation (depending on the business model) of an identified product before significant revenue generation. However, this does not prevent there being secondary reasons for listing. For example, a sell down by existing shareholders does not necessarily mean this requirement is not being met but broadly an applicant would need to demonstrate that this was a secondary rather than primary reason. An identified product can potentially include a platform technology.

When considering what constitutes 'significant revenue' we will have regard to the applicant's business model and whether it has historically generated any revenue. The fact that an applicant has already generated revenue is not an automatic bar to relying on the concession. However, if an applicant is already generating revenue from their products and no further products are in the pipeline this is potentially a concern. We will consider each applicant on a case-by-case basis and we will have regard to an explanation of whether or not any income will be accounted for as revenue under the relevant accounting standards. For example, for an applicant that does not plan to commercialise their identified products themselves but to out-license, then any ongoing royalties due under the out-licensing arrangements may constitute significant revenue. There are no requirements for generating 'significant revenue' within a specified time frame but applicants are required to disclose anticipated timelines in any prospectus.

Applicants are required to demonstrate under LR 6.11.2R(5) that they have a three year record in laboratory research and development. This requirement is partly to ensure that the products are already identified and that significant milestones have already been reached but it is also intended to indicate that the applicant has the expertise to progress the research and development.

For applicants that have operated for less than three years or where products have been acquired or in-licensed this can be problematic because the applicant itself may not have a three year record. In order to establish a three year record of research and development, we are willing to consider arguments to modify this requirement and to have regard to the experience of the applicant's management team, the extent of the applicant's rights over the products and who will be conducting the research and development. Where an applicant is outsourcing their research and development, for example to a contract research organisation, we will consider the identity and experience of the provider. In particular, we will need to understand if the applicant has sufficient control over the research and development in order to meet the requirements for an independent business and having operational control as set out in LR 6.4.1R and LR 6.6.1R respectively.

FINANCIAL CONDUCT AUTHORITY

UKLA Technical Note

Property companies

LR 6.12

The concession for certain property companies from the revenue earning track record requirements in LR 6.3.1R is meant to allow property companies to demonstrate maturity in other ways than through three years of revenue generation.

The concession is likely to be applicable to two types of property company:

1. Companies established within the previous three years, which predominantly hold mature assets that generate rental revenue. For such companies, the track record of the current holding vehicle is arguably less important than the revenue performance of the underlying assets. An example of this type of company is the spin out and listing of a mature portfolio, or the bringing together of a number of mature assets under a new umbrella holding company.

2. Companies that have been developing long-term projects for at least three years, but which may only be revenue generating at some point in the future. For such companies, the ability of the issuer to demonstrate successful development activity representative of its long-term strategy through several years of increases in the asset value on the balance sheet, and supported by a property valuation report, will be much more informative than revenue. We would not regard the mere holding of property or a planning application without development as being sufficient, as this would give investors little insight into the track record of the company.

FINANCIAL CONDUCT AUTHORITY

UKLA Technical Note

Mineral Companies

Considering the specific features of the business and operating models of mineral companies, the Listing Rules offer a concessionary route to premium listing for mineral companies that would not otherwise be eligible for premium listing under LR 6.

LR 6.10.1R exempts a mineral company from the three year track record requirement under LR 6.2.1R(1) where the applicant has been operating for a shorter period. Such an applicant must produce published or filed historical financial information since the inception of its business activities. The financials must comply with LR 6.2.1R (2), (3), (4), LR 6.2.4R and LR 6.2.6R for the period to which the historical financial information is published or filed.

LR 6.10.2R also exempts a mineral company from LR 6.3.1R. An applicant mineral company does not, therefore, have to have historical financial information which (1) demonstrates a revenue earning track record and (2) puts prospective investors in a position to make an informed assessment of the business for which admission is sought.

Mineral companies will need to ensure: that the historical financial information (to the extent available) will represent at least 75% of the applicant's business; that it will be carrying on an independent business and meet the relevant requirements if they have a controlling shareholder.

Under LR 6.6.1R a mineral company must demonstrate it exercises operational control over the business it will be carrying on as its main activity. However, there is a concession in LR 6.10.3R from LR 6.6.1R where a mineral company cannot demonstrate compliance with LR 6.6.1R because it does not hold controlling interests in the majority of the properties, fields, mines or other assets in which it has invested. If a mineral company is unable to demonstrate that it controls interests for the majority of its assets under LR 6.10.3R (2) it must demonstrate that it has a reasonable spread of direct interests in mineral resources and rights to participate actively in their extraction.

This rule is intended to ensure the listed company has a substantive, operational business while recognising the common practice of co-venturing in resources industries. Our view has been that the 'reasonable spread' test should not be understood to require risk diversification in the manner in which an investment entity would be expected to spread risk. LR 6 is not intended for the listing of pure financial holdings or diversified investments; the latter may be able to be listed under LR 15.

We will make a subjective assessment of all the applicant's non-controlling interests to reach a decision on whether the reasonable spread requirement has been met.

One factor we may take into account is geographical spread of interests. In addition to assessing whether the reasonable spread requirement is satisfied, we will also assess whether the mineral applicant has, in relation to each non-controlling interest, rights to participate actively in extraction. This may be through voting rights or through other rights which give it influence in decisions about the timing and method of extracting resources. We may request analysis of the contractual agreements in place for each asset, such as operating/farm out agreements, license agreements, agreements with local governments as well as relevant national legislative requirements. Among other things, we may take the following factors into account: the operatorship role of the applicant, their right to participate and influence operating/management committee decisions, rights to appoint directors and veto rights. We find it helpful when advisers submit information that they detail each interest in resources, provide the terms of the relevant contractual agreement and show the significance of each asset by value.

When we assess whether the applicant has controlling interests in a majority by value of properties, we typically look at the details of the underlying agreements (partnership/joint venture), group structure diagrams showing the title to assets, influence of the national legislation over the applicant's control, accounting treatment of the rights in assets and sponsor's assessment of the value of each asset.

When considering whether or not a mineral company is eligible for a premium listing, an applicant together with its advisers may wish to consider how the LRs governing related party transactions, as set out in Chapter 11, will apply post admission. The holding structures and joint venture arrangements used by certain mineral companies mean that compliance with the LR governing related parties can be complex.

Where the applicant or its sponsor have concerns about complying with any of the specific premium listing criteria, including the ability to rely on the concession, they can get individual guidance on how a particular rule applies in accordance with LR 1.2.5G and Chapter 9 of our Supervision Manual (SUP).

Annex 3
Abbreviations used in this paper

CP	Consultation Paper
DP	Discussion Paper
FCA	Financial Conduct Authority
IPO	Initial public offering
LR	Listing Rules sourcebook
MAR	Market Abuse Regulation
PBT	Profit before tax
PRA	Prudential Regulation Authority
PS	Policy Statement

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

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.

You can download this Consultation Paper from our website: www.fca.org.uk.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 9644 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS

Appendix 1
Made rules (legal instrument)

LISTING RULES SOURCEBOOK AND FEES MANUAL (REDESIGNATION AND MISCELLANEOUS AMENDMENTS) INSTRUMENT 2017

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 96 (Obligations of issuers of listed securities);
(3) section 137A (The FCA's general rules);
(4) section 137T (General supplementary powers);
(5) section 139A (Power of the FCA to give guidance); and
(6) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority).

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 1 January 2018.

Amendments to the Handbook

D. The Glossary of definitions is amended in accordance with Annex A to this instrument.

E. The Fees manual (FEES) is amended in accordance with the table set out in Annex B to this instrument.

F. (1) The Listing Rules sourcebook (LR) is amended as follows:

(a) except for the items in (c), each provision of LR listed in column (1) of the table in Annex C is redesignated to form new sections in Chapter 6 of LR in accordance with the corresponding entry in column (2) of the table in Annex C;

(b) the text in LR 6.1.2AR (Definition of controlling shareholder) has been moved to form an expanded existing definition in the Glossary and in LR Appendix 1 (Relevant definitions);

(c) the items listed as 'Deleted' in column (2) of the table in Annex C are deleted from LR so that LR 6 reads as set out in Part 1 of Annex D to this instrument;

(d) the provisions in (a) designated as "Restated text" in column (3) of the table in paragraph F(2) are restated with amended cross-references so that they read as set out in Part 1 of Annex D to this instrument;

(e) the provisions in (a) designated as "Amended text" in column (3) of the table in paragraph F(2) are amended in accordance with Part 1 of Annex D to this instrument;

(f) the FCA makes the rules and gives the guidance designated as "New text" in column (3) of the table in paragraph F(2) in accordance with Part 1 of Annex D to this instrument;

(g) all the above provisions are combined so that they appear in the appropriate numerical order; and

(h) LR is additionally amended in accordance with Parts 2 and 3 of Annex D to this instrument.

(2) The table referred to in paragraph F(1)(d) to (f) is as follows:

Table of Origin		
(1) LR	**(2) Current location in LR (where applicable)**	**(3) How dealt with in this instrument**
LR 6.1.1R	LR 6.1.1R and 6.1.1AR	Amended text
LR 6.1.2G	LR 6.1.2G	Amended text
LR 6.2.1R	LR 6.1.3R(1)(a) to (c) and LR 6.1.3BR(1)	Amended text
LR 6.2.2G	LR 6.1.3CG	Amended text
LR 6.2.3R	LR 6.1.3DR(1), (2) and (4)	Amended text
LR 6.2.4R	LR 6.1.3R(1)(d) and (e)	Amended text
LR 6.2.5G	LR 6.1.3AG	Restated text
LR 6.2.6R	LR 6.1.3R(2)	Restated text
LR 6.3.1R(1)	N/A	New text
LR 6.3.1R(2)	LR 6.1.3BR(2)	Amended text
LR 6.3.2G	LR 6.1.3EG	Amended text
LR 6.4.1R	LR 6.1.4R	Amended text
LR 6.4.2G	LR 6.1.4AG	Amended text
LR 6.4.3G	LR 6.1.4AG(1) to (3)	Amended text
LR 6.5.1R	N/A	New text
LR 6.5.2G	LR 6.1.4AG	Amended text
LR 6.5.3G(1)	LR 6.1.4AG(4)	Amended text
LR 6.5.3G(2)	LR 6.1.4AG(6)	Amended text
LR 6.5.3G(3)	N/A	New text
LR 6.5.4R	LR 6.1.4BR(1) and LR 6.1.4DR	Amended text
LR 6.5.5R	LR 6.1.4CR	Amended text
LR 6.6.1R	N/A	New text
LR 6.6.2G	LR 6.1.4AG	Amended text
LR 6.6.3G(1)	N/A	New text

Table of Origin		
(1) LR	**(2) Current location in LR (where applicable)**	**(3) How dealt with in this instrument**
LR 6.6.3G(2) and (3)	LR 6.1.4AG(5)(a) and (b)	Amended text
LR 6.7.1R	LR 6.1.16R	Restated text
LR 6.8.1R	LR 6.1.22R(1)	Restated text
LR 6.8.2R	LR 6.1.22R(2)	Restated text
LR 6.9.1R(1)	LR 6.1.28R	Amended text
LR 6.9.1R(2)	LR 6.1.4BR(2)	Amended text
LR 6.9.2R	LR 6.1.25	Restated text
LR 6.10.1R	LR 6.1.8R	Amended text
LR 6.10.2R	LR 6.1.9R	Amended text
LR 6.10.3R	LR 6.1.10R	Amended text
LR 6.11.1R	LR 6.1.11R	Restated text
LR 6.11.2R	LR 6.1.12R	Amended text
LR 6.12.1R	N/A	New text
LR 6.12.2R	N/A	New text
LR 6.13.1R	LR 6.1.26R	Amended text
LR 6.13.2G	LR 6.1.27G	Amended text
LR 6.14.1R	LR 6.1.19R(1)	Amended text
LR 6.14.2R	LR 6.1.19R(2) and (3)	Amended text
LR 6.14.3R	LR 6.1.19(4)	Restated text
LR 6.14.4G	LR 6.1.20BG	Restated text
LR 6.14.5G	LR 6.1.20AG	Restated text
LR 6.15.1R	LR 6.1.21R	Amended text

Notes

G. In Annex D to this instrument, the "notes" (indicated by "**Note:**") are included for the convenience of readers but do not form part of the legislative text.

Citation

H. This instrument may be cited as the Listing Rules Sourcebook and Fees Manual (Redesignation and Miscellaneous Amendments) Instrument 2017.

By order of the Board
19 October 2017

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 definition in the appropriate alphabetical position. The text is not underlined.

shell company as defined in *LR* 5.6.5AR.

Amend the following definitions as shown.

controlling shareholder ~~as defined in *LR* 6.1.2AR~~ means any *person* who exercises or controls on their own or together with any *person* with whom they are acting in concert, 30% or more of the votes able to be cast on all or substantially all matters at general meetings of the *company*. For the purposes of calculating voting rights, the following voting rights are to be disregarded:

(1) any voting rights which such a *person* exercises (or controls the exercise of) independently in its capacity as: bare trustee, investment manager, collective investment undertaking or a *long-term insurer* in respect of its linked long-term business if no *associate* of that *person* interferes by giving direct or indirect instructions, or in any other way, in the exercise of such voting rights (except to the extent any such *person* confers or collaborates with such an *associate* which also acts in its capacity as investment manager, collective investment undertaking or *long-term insurer*); or

(2) any voting rights which a *person* may hold (or control the exercise of) solely in relation to the direct performance, by way of business, of:

(a) underwriting the issue or sale of *securities*; or

(b) placing *securities*, where the *person* provides a firm commitment to acquire any *securities* which it does not place; or

(c) acquiring *securities* from existing shareholders or the *issuer* pursuant to an agreement to procure third-party purchases of *securities*;

and where the conditions below are satisfied:

(i) the activities set out in (2)(a) to (c) are performed in the ordinary course of business;

(ii) the *securities* to which the voting rights attach are held for a consecutive period of 5 *trading days* or less, beginning with the first *trading day* on which the *securities* are held;

(iii) the voting rights are not exercised within the period the *securities* are held; and

(iv) no attempt is made directly or indirectly by the *person* to intervene in (or attempt to intervene in) or exert (or attempt to exert) influence on the management of the *issuer* within the period the *securities* are held.

group …

(4) (in *LR*):

(a) (except in ~~*LR* 6.1.4AG, *LR* 6.1.19R, *LR* 6.1.20BG~~ *LR* 6.4.3G, *LR* 6.5.3G, *LR* 6.14.3R, *LR* 6.14.4G, *LR* 8.7.8R(10), *LR* 14.2.2R, *LR* 14.2.3AG, *LR* 18.2.8R and *LR* 18.2.9AG) an *issuer* and its *subsidiary undertakings* (if any); and

(b) (in ~~*LR* 6.1.4AG, *LR* 6.1.19R, *LR* 6.1.20BG,~~ *LR* 6.4.3G, *LR* 6.5.3G, *LR* 6.14.3R, *LR* 6.14.4G, *LR* 8.7.8R(10), *LR* 14.2.2R, *LR* 14.2.3AG, *LR* 18.2.8R and *LR* 18.2.9AG), as defined in section 421 of the *Act*.

…

independent director a *director* whom ~~a *new*~~ an *applicant* or *listed company* has determined to be independent under the *UK Corporate Governance Code*.

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

new applicant (in *LR*) an *applicant* that does not have any *class* of its *securities* already *listed*.

Annex B

Amendments to the Fees manual (FEES)

(1) The table referred to in paragraph E of this instrument is as follows.

(2) The reference in column (2) of this Annex B is replaced with the reference in column (3) in the provision listed in column (1).

(3) Where a reference in column (2) appears in the provision listed in column (1) more than once, all references set out in column (2) are replaced with the reference in column (3) in the provision listed in column (1).

Cross reference updates		
(1) FEES section where cross-reference appears	**(2) Cross-reference to be amended**	**(3) New cross-reference**
FEES 3 Annex 12R	LR 6.1.1AR	LR 6.1.1R(1) or (2)
FEES 3 Annex 12R	LR 6.1.1AR	LR 6.1

Annex C

Re-numbering of the Listing Rules sourcebook (LR)

(1) The table referred to in paragraph F(1)(a) and (b) of this instrument is as follows.

(2) Where a reference in the table in this Annex C is to a sub-section only, the whole of the sub-section listed in column (1) is re-numbered as set out in column (2). The module, chapter and section of each provision is re-numbered as set out in column (2); otherwise the numbering of the paragraphs in the re-numbered section remains the same.

Table of Destination	
(1) LR current location	**(2) LR and Glossary destination (if applicable)**
LR 6.1.1R	LR 6.1.1R
LR 6.1.1AR	LR 6.1.1R
Applicant must satisfy requirements in this chapter	
LR 6.1.2G	LR 6.1.2G
Definition of controlling shareholder	
LR 6.1.2AR	Glossary, LR Appendix 1
Historical financial information	
LR 6.1.3R(1)(a) to (c)	LR 6.2.1R(1) to (3)
LR 6.1.3R(1)(d) to (e)	LR 6.2.4R
LR 6.1.3R(2)	LR 6.2.6R
LR 6.1.3AG	LR 6.2.5G
LR 6.1.3BR(1)	LR 6.2.1R(2)
LR 6.1.3BR(2)	LR 6.3.1R(2)
LR 6.1.3CG	LR 6.2.2G
LR 6.1.3DR(1), (2) and (4)	LR 6.2.3R
LR 6.1.3DR(3)	LR 6.2.4R(2)
LR 6.1.3EG	LR 6.3.2G
Independent business	
LR 6.1.4R	LR 6.4.1R
LR 6.1.4AG(1) to (3)	LR 6.4.2G and LR 6.4.3G
LR 6.1.4AG(4) and (6)	LR 6.5.3G(1) and (2)
LR 6.1.4AG(5)	LR 6.6.3G(2) and (3)
LR 6.1.4BR(1)	LR 6.5.4R
LR 6.1.4BR(2)	LR 6.9.1R(2)
LR 6.1.4CR	LR 6.5.5R
LR 6.1.4DR	LR 6.5.4R
Mineral companies	
LR 6.1.8R	LR 6.10.1R
LR 6.1.9R	LR 6.10.2R
LR 6.1.10R	LR 6.10.3R
Scientific research based companies	
LR 6.1.11R	LR 6.11.1R

Table of Destination	
(1) LR current location	**(2) LR and Glossary destination (if applicable)**
LR 6.1.12R	LR 6.11.2R
Other cases where the FCA may modify accounts and track record requirements	
LR 6.1.13G	Deleted
LR 6.1.14G	Deleted
LR 6.1.15G	Deleted
Working capital	
LR 6.1.16R	LR 6.7.1R
LR 6.1.17G	Deleted
LR 6.1.18G	Deleted
Shares in public hands	
LR 6.1.19R(1)	LR 6.14.1R
LR 6.1.19R(2) and (3)	LR 6.14.2R
LR 6.1.19R(4)	LR 6.14.3R
LR 6.1.19R(5)	LR 6.14.2R(3)
LR 6.1.20AG	LR 6.14.5G
LR 6.1.20BG	LR 6.14.4G
Shares of a non-EEA company	
LR 6.1.21R	LR 6.15.1R
Warrants or options to subscribe	
LR 6.1.22R(1)	LR 6.8.1R
LR 6.1.22R(2)	LR 6.8.2R
Pre-emption rights	
LR 6.1.25R	LR 6.9.2R
Externally managed companies	
LR 6.1.26R	LR 6.13.1R
LR 6.1.27G	LR 6.13.2G
Voting on matters relevant to premium listing	
LR 6.1.28R	LR 6.9.1R(1)

Annex D

Amendments to the Listing Rules sourcebook (LR)

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

Part 1: Restructuring of LR 6 with amendments

The following text is designated as set out in the table in paragraph F(2) of this instrument and is not underlined.

6 Additional requirements for premium listing (commercial company)

6.1 Application

6.1.1 R This chapter applies to an *applicant* for the *admission* of *equity shares* to *premium listing (commercial company)* except where:

(1) the *applicant* meets the following conditions:

(a) it has an existing *premium listing (commercial company)* of *equity shares*;

(b) it is applying for the *admission* of *equity shares* of the same *class* as the *shares* that have been admitted to *premium listing*; and

(c) it is not entering into a transaction classified as a *reverse takeover*; or

(2) the following conditions are met:

(a) a *company* has an existing *premium listing (commercial company)* of *equity shares*;

(b) the *applicant* is a new holding company of the *company* in (a); and

(c) the *company* in (a) is not entering into a transaction classified as a *reverse takeover*.

Applicant must satisfy requirements in this chapter

6.1.2 G An *applicant* to whom this chapter applies must satisfy the requirements in this chapter (in addition to those in *LR* 2).

6.2 Historical financial information requirements

Content of historical financial information

6.2.1 R An *applicant* must have published or filed historical financial information that:

(1) covers at least three years;

[**Note:** article 44 of the *CARD*]

(2) represents at least 75% of the *applicant's* business for the period in (1);

(3) unless *LR* 5.6.21R applies, has a latest balance sheet date that is not more than:

(a) six months before the date of the *prospectus* or *listing particulars* for the relevant *shares*; and

(b) nine months before the date the *shares* are *admitted to listing*; and

(4) includes the consolidated accounts for the *applicant* and all its *subsidiary undertakings*.

6.2.2 G (1) In determining what amounts to 75% of the *applicant's* business for the purpose of *LR* 6.2.1R(2), the *FCA* will consider the size, in aggregate, of all of the acquisitions that the *applicant* has entered into during the period required by *LR* 6.2.1R(1) and up to the date of the *prospectus* or *listing particulars*, relative to the size of the *applicant* as enlarged by the acquisitions.

(2) In ascertaining the size of the acquisitions relative to the *applicant* for the purposes of *LR* 6.2.1R(2), the *FCA* will take into account factors such as the assets, profitability and market capitalisation of the businesses.

(3) The figures used should be the latest available for the acquired entity and the *applicant* as enlarged by the acquisition or acquisitions.

6.2.3 R Where an *applicant* has made an acquisition or series of acquisitions such that its own consolidated financial information is insufficient to meet the 75% requirement in *LR* 6.2.1R(2), there must be historical financial information relating to the acquired entity or entities which has been published or filed and that:

(1) covers the period from at least three years prior to the date under *LR* 6.2.1R(3) up to the earlier of:

(a) the date in *LR* 6.2.1R(3); or

(b) the date of acquisition by the *applicant*;

(2) is prepared and presented in a form that is consistent with the accounting policies adopted in the financial information required by *LR* 6.2.1R; and

(3) in aggregate with its own historical financial information represents at least 75% of the enlarged *applicant's* business for the period in *LR* 6.2.1R(1).

Audit requirements for historical financial information

6.2.4 R The historical financial information in *LR* 6.2.1R and *LR* 6.2.3R must:

(1) have been audited or reported on in accordance with the standards acceptable under item 20.1 of Annex I of the *PD Regulation*; and

(2) not be subject to a *modified report*, unless the circumstances set out in *LR* 6.2.5G apply.

6.2.5 G The *FCA* may accept that *LR* 6.2.4R(2) has been satisfied where a *modified report* is present only as a result of:

(1) the presence of an emphasis-of-matter paragraph which arises in any of the earlier periods required by *LR* 6.2.1R and the opinion on the final period is unmodified; or

(2) the opinion on the historical financial information for the final period under *LR* 6.2.1R includes an emphasis-of-matter paragraph with regard to going concern and *LR* 6.7.1R (Working capital) is complied with.

6.2.6 R An *applicant* must:

(1) take all reasonable steps to ensure that the *person* providing the opinion in *LR* 6.2.4R(1) is independent of it; and

(2) obtain written confirmation from the *person* providing the opinion in *LR* 6.2.4R(1) that it complies with guidelines on independence issued or approved by its national accountancy or auditing bodies.

6.3 Revenue earning track record requirement

6.3.1 R The historical financial information required under *LR* 6.2.1R and *LR* 6.2.3R must:

(1) demonstrate that the *applicant* has a revenue earning track record; and

(2) put prospective investors in a position to make an informed assessment of the business for which *admission* is sought.

6.3.2 G (1) The purpose of *LR* 6.2.1R(2), *LR* 6.2.3R, and *LR* 6.3.1R is to ensure that the *applicant* has representative financial information throughout the period required by *LR* 6.2.1R(1) and *LR* 6.2.3R and to assist prospective investors to make a reasonable assessment of what the future prospects of the *applicant's* business might be. Investors are then able to consider the *applicant's* historical financial information in light of its particular competitive advantages, the outlook for the sector in which it operates and the general macro economic climate.

(2) The *FCA* may consider that an *applicant* does not have representative historical financial information and that its *equity shares* are not eligible for a *premium listing* if a significant part or all of the *applicant's* business has one or more of the following characteristics:

(a) a business strategy that places significant emphasis on the development or marketing of products or services which have not formed a significant part of the *applicant's* historical financial information;

(b) the value of the business on *admission* will be determined, to a significant degree, by reference to future developments rather than past performance;

(c) the relationship between the value of the business and its revenue or profit-earning record is significantly different from those of similar companies in the same sector;

(d) there is no record of consistent revenue, cash flow or profit growth throughout the period of the historical financial information;

(e) the *applicant's* business has undergone a significant change in its scale of operations during the period of the historical financial information or is due to do so before or after *admission*;

(f) it has significant levels of research and development expenditure or significant levels of capital expenditure.

6.4 Independent business

6.4.1 R An *applicant* must demonstrate that it carries on an independent business as its main activity.

6.4.2 G *LR* 6.4.1R is intended to ensure that the protections afforded to *holders* of *equity shares* by the *premium listing* requirements are meaningful.

6.4.3 G Factors that may indicate that an *applicant* does not satisfy *LR* 6.4.1R include situations where:

(1) a majority of the revenue generated by the *applicant's* business is attributable to business conducted directly or indirectly with one *person* or *group*; or

(2) the *applicant* cannot demonstrate that it has access to financing other than from one *person* or *group*; or

(3) the *applicant* does not have:

(a) strategic control over the commercialisation of its products; or

(b) strategic control over its ability to earn revenue; or

(c) freedom to implement its business strategy.

6.5 Controlling shareholders

6.5.1 R An *applicant* with a *controlling shareholder* must demonstrate that, despite having a *controlling shareholder*, the *applicant* is able to carry on an independent business as its main activity.

6.5.2 G *LR* 6.5.1R is intended to ensure that the protections afforded to *holders* of *equity shares* by the *premium listing* requirements are meaningful.

6.5.3 G Factors that may indicate that an *applicant* does not satisfy the requirement in *LR* 6.5.1R (even where the agreement in *LR* 6.5.4R is in place) include:

(1) an *applicant* has granted or may be required to grant security over its business in connection with the funding of a *controlling shareholder* or a member of a *controlling shareholder's group*; or

(2) a *controlling shareholder* (or any *associate* thereof) appears to be able to influence the operations of the *applicant* outside its normal governance structures or via material shareholdings in one or more significant *subsidiary undertakings*; or

(3) a *controlling shareholder* appears to be able to exercise improper influence over the *applicant*; or

(4) an *applicant* cannot demonstrate that it has access to financing other than from a *controlling shareholder* (or an *associate* thereof).

6.5.4 R An *applicant* with a *controlling shareholder* upon *admission* must have in

place a written and legally binding agreement with its *controlling shareholder* which is intended to ensure that the *controlling shareholder* complies with undertakings that:

(1) transactions and arrangements with the *controlling shareholder* (and/or any of its *associates*) will be conducted at arm's length and on normal commercial terms;

(2) neither the *controlling shareholder* nor any of its *associates* will take any action that would have the effect of preventing the *applicant* from complying with its obligations under the *listing rules*; and

(3) neither the *controlling shareholder* nor any of its *associates* will propose or procure the proposal of a shareholder resolution which is intended or appears to be intended to circumvent the proper application of the *listing rules*.

6.5.5 R An *applicant* with more than one *controlling shareholder* is not required to enter into a separate agreement with each *controlling shareholder* if:

(1) the *applicant* reasonably considers, in light of its understanding of the relationship between the relevant *controlling shareholders*, that a *controlling shareholder* can procure the compliance of another *controlling shareholder* and that *controlling shareholder's associates* with the undertakings in *LR* 6.5.4R; and

(2) the agreement, which contains the undertakings in *LR* 6.5.4R, entered into with the relevant *controlling shareholder* also contains:

(a) a provision in which the *controlling shareholder* agrees to procure the compliance of a non-signing *controlling shareholder* and its *associates* with the undertakings in *LR* 6.5.4R; and

(b) the name of such non-signing *controlling shareholder*.

6.6 Control of the business

6.6.1 R An *applicant* must demonstrate that it exercises operational control over the business it carries on as its main activity.

6.6.2 G *LR* 6.6.1R is intended to ensure that the protections afforded to holders of *holders* of *equity shares* by the *premium listing* requirements are meaningful.

6.6.3 G Factors that may indicate that an *applicant* does not satisfy the requirement in *LR* 6.6.1R include where the *applicant's* business consists principally of holding *shares* in entities that it does not control, including entities where the *applicant*:

(1) owns a minority holding of *shares*; or

(2) is only able to exercise negative control; or

(3) exercises control subject to contractual arrangements which could be altered without the *applicant's* agreement or could result in a temporary or permanent loss of control.

6.7 Working capital

6.7.1 R An *applicant* must satisfy the *FCA* that it and its *subsidiary undertakings* (if any) have sufficient working capital available for the *group's* requirements for at least the next 12 months from the date of publication of the *prospectus* or *listing particulars* for the *shares* that are being admitted.

6.8 Warrants or options to subscribe

6.8.1 R The total of all issued *warrants* to subscribe for *equity shares* or *options* to subscribe for *equity shares* must not exceed 20% of the issued *equity share capital* (excluding *treasury shares*) of the *applicant* as at the time of issue of the *warrants* or *options*.

6.8.2 R For the purpose of the 20% limit in *LR* 6.8.1R, rights under *employees' share schemes* are not included.

6.9 Constitutional arrangements

6.9.1 R An *applicant* must have in place a constitution that allows it to comply with the *listing rules*, in particular:

(1) *LR* 9.2.21R to vote on matters relevant to *premium listing*; and

(2) for an *applicant* with a *controlling shareholder*, *LR* 9.2.2ER and *LR* 9.2.2FR concerning the election and re-election of *independent directors*.

Pre-emption rights

6.9.2 R If the law of the country of its incorporation does not confer on *shareholders* rights which are at least equivalent to *LR* 9.3.11R, an *overseas company* applying for a *premium listing* must:

(1) ensure its constitution provides for rights which are at least equivalent to the rights provided in *LR* 9.3.11R (as qualified by *LR* 9.3.12R); and

(2) be satisfied that conferring such rights would not be incompatible with the law of the country of its incorporation.

6.10 Specialist companies: mineral companies

6.10.1 R Where a *mineral company* applies for the *admission* of its *equity shares* to a *premium listing* and cannot comply with the minimum three-year period required in *LR* 6.2.1R(1) because it has been operating for a shorter period:

(1) the *mineral company* must have published or filed historical financial information since the inception of its business; and

(2) the following apply to the *mineral company* only with regard to the period for which it has published or filed historical financial information pursuant to (1):

(a) *LR* 6.2.1R(2), *LR* 6.2.1R(3) and *LR* 6.2.1R(4) (content of historical financial information); and

(b) *LR* 6.2.4R and *LR* 6.2.6R (audit requirements for historical financial information).

6.10.2 R *LR* 6.3.1R (revenue earning track record) does not apply to a *mineral company* that applies for the *admission* of its *equity shares* to a *premium listing*.

6.10.3 R (1) This *rule* applies if the *mineral company* applies for the *admission* of its *equity shares* to *premium listing* and cannot comply with *LR* 6.6.1R (control of business) because the *mineral company* does not hold controlling interests in a majority (by value) of the properties, fields, mines or other assets in which it has invested.

(2) The *mineral company* must demonstrate that it has a reasonable spread of direct interests in mineral resources and has rights to participate actively in their extraction, whether by voting or through other rights which give it influence in decisions over the timing and method of extraction of those resources.

6.11 Specialist companies: scientific research based companies

6.11.1 R Where a *scientific research based company* applies for the *admission* of its *equity shares* to a *premium listing* and cannot comply with the minimum three-year period required in *LR* 6.2.1R(1) because it has been operating for a shorter period:

(1) the *scientific research based company* must have published or filed historical financial information since the inception of its business;

and

(2) the following apply to the *scientific research based company* only with regard to the period for which it has published or filed historical financial information under (1):

(a) *LR* 6.2.1R(2), *LR* 6.2.1R(3) and *LR* 6.2.1R(4) (content of historical financial information); and

(b) *LR* 6.2.4R and *LR* 6.2.6R (audit requirements for historical financial information).

6.11.2 R If the *scientific research based company* does not comply with either *LR* 6.2.1R(1) (minimum period for historical financial information) or *LR* 6.3.1R (revenue earning track record), it must:

(1) demonstrate its ability to attract funds from sophisticated investors prior to the marketing at the time of *listing*;

(2) intend to raise at least £10 million pursuant to a marketing at the time of *listing*;

(3) have a capitalisation, before the marketing at the time of *listing*, of at least £20 million (based on the issue price and excluding the value of any *equity shares* which have been issued in the six months before *listing*);

(4) have as its primary reason for *listing* the raising of finance to bring identified products to a stage where they can generate significant revenues; and

(5) demonstrate that it has a three year record in laboratory research and development including:

(a) details of patents granted or details of progress of patent applications; and

(b) the successful completion of, or the successful progression of, significant testing of the effectiveness of its products.

6.12 Specialist companies: property companies

6.12.1 R Where a *property company* applies for the *admission* of its *equity shares* to a *premium listing* and cannot comply with *LR* 6.3.1R because it does not have a revenue earning track record:

(1) the *property company* must demonstrate that it has three years of development of its real estate assets represented by increases of the gross asset value of its real estate assets:

(a) evidenced by the historical financial information required by *LR* 6.2.1R; and

(b) supported by a published *property valuation report*; or

(2) the *property company* must demonstrate that 75% of the gross asset value of an *applicant's* real estate assets, as supported by a published *property valuation report*, are revenue generating at the point in time when the application for *admission* of the *equity shares* to a *premium listing* is made.

6.12.2 G For the purposes of *LR* 6.12.1R, the *property valuation report* should be published in the *applicant's prospectus*.

6.12.3 R Where a *property company* is relying on *LR* 6.12.1R(2) and cannot comply with *LR* 6.2.1R(1) because it has been operating for a shorter period:

(1) the *property company* must have published or filed historical financial information since the inception of its business; and

(2) the following apply to the *property company* only with regard to the period for which it has published or filed historical financial information under (1):

(a) *LR* 6.2.1R(2), *LR* 6.2.1R(3) and *LR* 6.2.1R(4) (content of historical financial information); and

(b) *LR* 6.2.4R and *LR* 6.2.6R (audit requirements for historical financial information).

6.13 Externally managed companies

6.13.1 R An *applicant* must satisfy the *FCA* that:

(1) the discretion of its board to make strategic decisions on behalf of the *applicant* has not been limited or transferred to a *person* outside the *applicant's group*; and

(2) its board has the capability to act on key strategic matters in the absence of a recommendation from a *person* outside the *applicant's group*.

6.13.2 G In considering whether an *applicant* has satisfied *LR* 6.13.1R, the *FCA* will consider, among other things, whether the board of the *applicant* consists solely of *non-executive directors* and whether significant elements of the strategic decision-making of or planning for the *applicant* take place outside the *applicant's group*, for example with an *external management company*.

6.14 Shares in public hands

6.14.1 R Where an *applicant* is applying for the *admission* of a *class* of *equity shares* to *premium listing*, a sufficient number of *shares* of that *class* must, no later than the time of *admission*, be distributed to the public in one or more *EEA States*.

[**Note:** article 48 of the *CARD*]

6.14.2 R For the purposes of *LR* 6.14.1R:

(1) account may also be taken of holders in one or more states that are not *EEA States*, if the *shares* are listed in the state or states;

(2) a sufficient number of *shares* will be taken to have been distributed to the public when 25% of the *shares* for which application for *admission* has been made are in public hands; and

(3) *treasury shares* are not to be taken into consideration when calculating the number of *shares* of the *class*.

[**Note:** article 48 of the *CARD*]

6.14.3 R For the purposes of *LR* 6.14.1R and *LR* 6.14.2R, *shares* are not held in public hands if they are:

(1) held, directly or indirectly by:

(a) a *director* of the *applicant* or of any of its *subsidiary undertakings*; or

(b) a *person* connected with a *director* of the *applicant* or of any of its *subsidiary undertakings*; or

(c) the trustees of any *employees' share scheme* or pension fund established for the benefit of any *directors* and *employees* of the *applicant* and its *subsidiary undertakings*; or

(d) any *person* who under any agreement has a right to nominate a *person* to the board of *directors* of the *applicant*; or

(e) any *person* or *persons* in the same *group* or *persons* acting in concert who have an interest in 5% or more of the *shares* of the relevant class;

(2) subject to a lock-up period of more than 180 calendar days.

[**Note:** article 48 of the *CARD*]

6.14.4 G When calculating the number of *shares* for the purposes of *LR* 6.14.3R(1)(e), holdings of *investment managers* in the same *group* where investment decisions are made independently by the individual in control of

the relevant fund and those decisions are unfettered by the *group* to which the *investment manager* belongs will be disregarded.

6.14.5 G (1) The *FCA* may modify *LR* 6.14.1R to accept a percentage lower than 25% if it considers that the market will operate properly with a lower percentage in view of the large number of *shares* of the same *class* and the extent of their distribution to the public.

[**Note:** article 48 of the *CARD*]

(2) In considering whether to grant a modification, the *FCA* may take into account the following specific factors:

(a) *shares* of the same *class* that are held (even though they are not listed) in states that are not *EEA States*;

(b) the number and nature of the public shareholders; and

(c) in relation to *premium listing (commercial companies)*, whether the expected market value of the *shares* in public hands at *admission* exceeds £100 million.

6.15 Shares of a non-EEA company

6.15.1 R The *FCA* will not admit *shares* of an *applicant* incorporated in a *non-EEA State* that are not listed either in its country of incorporation or in the country in which a majority of its *shares* are held, unless the *FCA* is satisfied that the absence of the listing is not due to the need to protect investors.

[**Note:** article 51 of the *CARD*]

…

Part 2: Additional amendments to the Listing Rules sourcebook (LR)

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

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

…

5.6 Reverse takeovers

…

~~Definition~~ Definitions

…

5.6.5A R A *shell company* is an *issuer* whose:

(1) assets consist solely or predominantly of cash or short-dated *securities*; or

(2) predominant purpose or objective is to undertake an acquisition or merger, or a series of acquisitions or mergers.

Requirement for a suspension

5.6.6 R ~~An *issuer*~~ A *shell company*, or in the case of ~~an *issuer*~~ a *shell company* with a *premium listing*, its *sponsor*, must contact the *FCA* as early as possible:

(1) before announcing a *reverse takeover* which has been agreed or is in contemplation, to discuss whether a suspension of *listing* is appropriate; or

(2) where details of the *reverse takeover* have leaked, to request a suspension.

5.6.7 G Examples of where the *FCA* will consider that a *reverse takeover* is in contemplation include situations where:

(1) the ~~*issuer*~~ *shell company* has approached the *target's* board;

(2) the ~~*issuer*~~ *shell company* has entered into an exclusivity period with a *target*; or

(3) the ~~*issuer*~~ *shell company* has been given access to begin due diligence work (whether or not on a limited basis).

5.6.8 G Generally, when a *reverse takeover* between a *shell company* and a *target* is announced or leaked, there will be insufficient publicly available information about the proposed transaction and the ~~*issuer*~~ *shell company* will be unable to assess accurately its financial position and inform the market accordingly. In this case, the *FCA* will often consider that suspension will be appropriate, as set out in *LR* 5.1.2G(3) and (4). However, if the *FCA* is satisfied that there is sufficient publicly available information about the proposed transaction it may agree with the ~~*issuer*~~ *shell company* that a suspension is not required.

5.6.9 G *LR* 5.6.10G to *LR* 5.6.18R set out circumstances in which the *FCA* will generally be satisfied that a suspension is not required.

Reverse takeover by a shell company: ~~Target~~ target admitted to a regulated market

5.6.10 G …

(2) the ~~*issuer*~~ *shell company* makes an announcement stating that the *target* has complied with the disclosure requirements applicable on that *regulated market* and providing details of where information disclosed pursuant to those requirements can be obtained.

…

Reverse takeover by a shell company: ~~Target~~ target subject to the disclosure regime of another market

5.6.12 G The *FCA* will generally be satisfied that there is sufficient publicly available information in the market about the proposed transaction if the *target* has *securities* admitted to an investment exchange or trading platform that is not a *regulated market* and the ~~*issuer*~~ *shell company*:

…

5.6.13 R Where ~~an *issuer*~~ a *shell company* has a *premium listing*, a written confirmation provided for the purpose of *LR* 5.6.12G(1) must be given by the ~~*issuer's*~~ *shell company's sponsor*.

…

Reverse takeover by a shell company: ~~Target~~ target not subject to a public disclosure regime

5.6.15 G Where the *target* in a *reverse takeover* by a *shell company* is not subject to a public disclosure regime, or if the *target* has *securities* admitted on an investment exchange or trading platform that is not a *regulated market* but the ~~*issuer*~~ *shell company* is not able to give the confirmation and make the announcement contemplated by *LR* 5.6.12G, the *FCA* will generally be satisfied that there is sufficient publicly available information in the market about the proposed transaction such that a suspension is not required where the ~~*issuer*~~ *shell company* makes an announcement containing:

(1) …

…

(d) a description of the key differences between the ~~*issuer's*~~ *shell company's* accounting policies and the policies used to present the financial information on the *target*;

…

(3) a declaration that the *directors* of the ~~*issuer*~~ *shell company* consider that the announcement contains sufficient information about the business to be acquired to provide a properly informed basis for assessing its financial position; and

(4) a declaration confirming that the ~~*issuer*~~ *shell company* has made the

necessary arrangements with the *target* vendors to enable it to keep the market informed without delay of any developments concerning the *target* that would be required to be released were the *target* part of the ~~*issuer*~~ *shell company*.

…

5.6.17 R Where ~~an *issuer*~~ a *shell company* has a *premium listing*, a *sponsor* must provide written confirmation to the *FCA* that in its opinion, it is reasonable for the ~~*issuer*~~ *shell company* to provide the declarations described in *LR* 5.6.15G(3) and (4).

5.6.18 R Where the *FCA* has agreed that a suspension is not necessary as a result of an announcement made for the purpose of *LR* 5.6.15G the ~~*issuer*~~ *shell company* must comply with the obligation under article 17(1) of the *Market Abuse Regulation* on the basis that the *target* already forms part of the enlarged *group*.

…

8 Sponsors: Premium listing

…

8.4 Role of a sponsor: transactions

Application for admission~~: new applicants~~

8.4.1 R …

8.4.2 R …

(5) the *directors* of the *applicant* have a reasonable basis on which to make the working capital statement ~~required by *LR* 6.1.16R~~ which demonstrates that *LR* 6.7.1R is satisfied.

…

8.4.8 R …

(3) the *directors* of the *applicant* have a reasonable basis on which to make the working capital statement required ~~by *LR* 6.1.16R or a qualified working capital statement in accordance with *LR* 6.1.17G (as the case may be)~~ to be included in the *applicant's prospectus* or *listing particulars* and submitted to the *FCA* in accordance with *LR* 3.3.2R(2).

…

9 Continuing obligations

…

9.2 Requirements with continuing application

…

Independent business

9.2.2A R (1) A *listed company* must carry on an independent business as its main activity at all times.

(2) ~~Where a *listed company* has a *controlling shareholder*, it must have in place at all times:~~ [deleted]

~~(a) a written and legally binding agreement which is intended to ensure that the *controlling shareholder* complies with the independence provisions set out in *LR* 6.1.4DR; and~~

~~(b) a constitution that allows the election and re-election of *independent directors* to be conducted in accordance with the election provisions set out in *LR* 9.2.2ER and *LR* 9.2.2FR.~~

9.2.2AA G *LR* 6.4.3G provides *guidance* on factors that may indicate that a *listed company* is not carrying on an independent business.

Controlling shareholders

9.2.2AB R A *listed company* with a *controlling shareholder* must demonstrate that, despite having a *controlling shareholder*, the *listed company* is still able to carry on an independent business as its main activity at all times.

9.2.2AC G *LR* 6.5.3G provides *guidance* on factors that may indicate that a *listed company* with a *controlling shareholder* is not carrying on an independent business.

9.2.2AD R Where a *listed company* has a *controlling shareholder*, it must have in place at all times:

(1) a written and legally binding agreement which is intended to ensure that the *controlling shareholder* complies with the undertakings in *LR* 6.5.4R; and

(2) a constitution that allows the election and re-election of *independent directors* to be conducted in accordance with *LR* 9.2.2ER and *LR* 9.2.2FR (election provisions).

9.2.2B R In order to comply with ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1), where a *listed company* will have more than one *controlling shareholder*, the *listed company* will not be required to enter into a separate agreement with each *controlling shareholder* if:

(1) the *listed company* reasonably considers, in light of its understanding of the relationship between the relevant *controlling shareholders*, that a *controlling shareholder* can procure the compliance of another

controlling shareholder and that *controlling shareholder's associates* with the ~~independence provisions contained in the relevant agreement~~ undertakings in *LR* 6.5.4R; and

(2) the agreement, which contains the ~~independence provisions set out~~ undertakings in ~~*LR* 6.1.4DR~~ *LR* 6.5.4R, entered into with the relevant controlling shareholder also contains:

(a) a provision in which the *controlling shareholder* agrees to procure the compliance of a non-signing *controlling shareholder* and its *associates* with the ~~independence provisions contained within the agreement~~ undertakings in *LR* 6.5.4R; and

…

9.2.2C R Where as a result of changes in ownership or control of a *listed company*, a *person* becomes a *controlling shareholder* of the *listed company*, the *listed company* will be allowed:

(1) a period of not more than 6 months from the event that resulted in that *person* becoming a *controlling shareholder* to comply with ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1); and

(2) in the case of a *listed company* which did not previously have a *controlling shareholder*, until the date of the next annual general meeting of the *listed company*, other than an annual general meeting for which notice:

…

to comply with ~~*LR* 9.2.2AR(2)(b)~~ *LR* 9.2.2ADR(2).

9.2.2D G In complying with ~~*LR* 9.2.2AR(2)(b)~~ *LR* 9.2.2ADR(2), a *listed company* may allow an existing *independent director* who is being proposed for re-election (including any such *director* who was appointed by the board of the *listed company* until the next annual general meeting) to remain in office until any resolution required by *LR* 9.2.2FR has been voted on.

9.2.2E R Where ~~*LR* 9.2.2AR(2)~~ *LR* 9.2.2ADR applies, the election or re-election of any *independent director* by shareholders must be approved by:

…

…

9.2.2G R A *listed company* must comply with the ~~independence provisions contained in any agreement entered into under *LR* 6.1.4BR(1)~~ undertakings in *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) at all times.

9.2.2H G In addition to the annual confirmation required to be included in a *listed company's* annual financial report under *LR* 9.8.4R(14), the *FCA* may

request information from a *listed company* under *LR* 1.3.1R(3) to confirm or verify that an ~~independence provision contained in any agreement entered into under *LR* 6.1.4BR(1)~~ undertaking in *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) or a procurement obligation (as set out in ~~*LR* 6.1.4CR(2)(a)~~ *LR* 6.5.5R(2)(a) or *LR* 9.2.2BR(2)(a)) contained in an agreement entered into under ~~*LR* 6.1.4BR(1)~~ *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) is being or has been complied with.

Control of business

9.2.2I R A *listed company* must exercise operational control over the business it carries on as its main activity at all times.

9.2.2J G *LR* 6.6.3G provides *guidance* on factors that may indicate that a *listed company* is not exercising operational control over the business it carries on as its main activity.

9.2.2K R (1) This *rule* applies where a *mineral company* does not hold controlling interests in a majority (by value) of the properties, fields, mines or other assets in which it has invested.

(2) The *mineral company* is not required to comply with *LR* 9.2.2IR where it can demonstrate the factors set out in *LR* 6.10.3R(2).

…

Notifications to the FCA: notifications regarding continuing obligations

9.2.23 R A *listed company* must notify the *FCA* without delay if it does not comply with any continuing obligation set out in *LR* 9.2.2AR, *LR* 9.2.2ABR, *LR* 9.2.2ADR, *LR* 9.2.2ER, *LR* 9.2.2FR, *LR* 9.2.15R or *LR* 9.2.21R.

Notifications to the FCA: notifications regarding compliance with independence provisions

9.2.24 R A *listed company* must notify the *FCA* without delay if:

…

(2) it becomes aware that an ~~independence provision contained in an agreement entered into under *LR* 6.1.4BR(1)~~ undertaking in *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) has not been complied with by the *controlling shareholder* or any of its *associates*; or

(3) it becomes aware that a procurement obligation (as set out in ~~*LR* 6.1.4CR (2)(a)~~ *LR* 6.5.5R(2)(a) or *LR* 9.2.2BR(2)(a)) contained in an agreement entered into under ~~*LR* 6.1.4BR(1)~~ *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) has not been complied with by a *controlling shareholder*.

…

9.8 Annual financial report

…

Information to be included in annual report and accounts

9.8.4 R In addition to the requirements set out in *DTR* 4.1 a *listed company* must include in its annual financial report, where applicable, the following:

…

(14) a statement made by the board:

(a) that the *listed company* has entered into any agreement required under ~~*LR* 9.2.2AR (2)(a)~~ *LR* 9.2.2ADR(1); or

(b) where the *listed company* has not entered into an agreement required under ~~*LR* 9.2.2AR (2)(a)~~ *LR* 9.2.2ADR(1):

…

(c) that:

(i) the *listed company* has complied with the ~~independence provisions included in any agreement entered into under *LR* 6.1.4BR(1)~~ undertakings in *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) during the period under review;

(ii) so far as the *listed company* is aware, the ~~independence provisions included in any agreement entered into under *LR* 6.1.4BR(1)~~ undertakings in *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) have been complied with during the period under review by the *controlling shareholder* or any of its *associates*; and

(iii) so far as the *listed company* is aware, the procurement obligation (as set out in ~~*LR* 6.1.4CR(2)(a)~~ *LR* 6.5.5R(2)(a) or *LR* 9.2.2BR(2)(a)) included in any agreement entered into under ~~*LR* 6.1.4BR(1)~~ *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) has been complied with during the period under review by a *controlling shareholder*; or

(d) where an ~~independence provision included in any agreement entered into under *LR* 6.1.4BR(1)~~ undertaking in *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) or a procurement obligation (as set out in ~~*LR* 6.1.4CR(2)(a)~~ *LR* 6.5.5R(2)(a) or *LR* 9.2.2BR(2)(a)) included in any agreement entered into under ~~*LR* 6.1.4BR(1)~~ *LR* 6.5.4R or ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) has not been complied with during the period

under review:

…

(ii) a brief description of the background to and reasons for failing to comply with the relevant ~~independence provision~~ undertaking or procurement obligation that enables shareholders to evaluate the impact of non-compliance on the *listed company*.

…

9.8.4B G Where a *listed company's* annual financial report contains a statement of the type referred to in *LR* 9.8.4R(14)(b) or (d), the *FCA* may still take any action it considers necessary in relation to the underlying breach by the *listed company* of ~~*LR* 9.2.2AR(2)(a)~~ *LR* 9.2.2ADR(1) or *LR* 9.2.2GR.

…

10 Significant transactions: Premium listing

…

10 Annex 1G The Class Tests

…			
Figures used to classify assets and profits			
8R	…		
	(3)	(a)	The figures of the *listed company* must be adjusted to take account of transactions completed during the period to which the figures referred to in (1) or (2) relate, and subsequent completed transactions, which have been notified to a *RIS* under *LR* 10.4 or *LR* 10.5.
		(b)	The figures of the target company or business must be adjusted to take account of transactions completed during the period to which the figures referred to in (1) or (2) relate, and subsequent completed transactions, which would have been a *class 2 transaction* or greater when classified against the target as a whole.
	…		
…			
11G	Where a *listed company* wishes to make adjustments to the figures used in calculating the class tests pursuant to 10G they should discuss this with the *FCA* before the class tests crystallise.		

The Profits Test: Anomalous Results					
12R	Paragraph 13R applies to a *company* that has a *premium listing* of *equity shares* where:				
	(1)	the calculation under the profits test produces a *percentage ratio* of 25% or more and this result is anomalous; and			
	(2)	the transaction is not a *related party transaction*.			
13R	A *company* that has a *premium listing* of *equity shares* may:				
	(1)	where each of the other applicable *percentage ratios* are less than 5%, disregard the profits test for the purposes of classifying the transaction; or			
	(2)	make the following adjustments to the calculation under the profits test:			
		(a)	where any of the following costs are genuinely one-off costs, the figures used to classify profits of the *listed company*, or the target company or business, may be adjusted for:		
			(i)	costs incurred by the *listed company*, or target company or business, in connection with the *listed company*, or target company or business' initial public offering; or	
			(ii)	closure costs incurred by the *listed company*, or target company or business, that are not part of an on-going restructuring that will occur over more than one financial period;	
		(b)	where a *listed company*, or target company or business, has completed an initial public offering, the figures used to classify profits of the *listed company*, or target company or business, may be adjusted for interest charges incurred under private ownership prior to completion of the initial public offering provided that these interest charges:		
			(i)	have been incurred under facilities that were repaid as part of the initial public offering capital restructuring; and	
			(ii)	are substituted in the calculation of the profits test with the interest charges that would have been incurred under the new facilities for the relevant period.	
14G	Any adjustments made in accordance with paragraph 13R(2) should be applied equally to both the *listed company*, and target company or business, where applicable, to ensure a like-for-like comparison is being undertaken.				
15G	A *company* that has a *premium listing* of *equity shares* does not have to consult the *FCA* in accordance with paragraph 10G or 11G before relying on paragraph 13R.				

…

11 Related party transactions: Premium listing

11.1 Related party transactions

Application

…

11.1.1A R Where a *company* has a *premium listing* and:

…

(2) it becomes aware that a *controlling shareholder* or any of its *associates* is not in compliance with an ~~independence provision contained in an agreement entered into under *LR* 6.1.4BR(1)~~ undertaking in *LR* 6.5.4R or *LR* 9.2.2AR(2)(a);

…

…

Appendix 1 Relevant definitions

App 1.1 Relevant definitions

1.1.1 …

…

controlling shareholder		~~as defined in *LR* 6.1.2AR~~ means any *person* who exercises or controls on their own or together with any *person* with whom they are acting in concert, 30% or more of the votes able to be cast on all or substantially all matters at general meetings of the *company*. For the purposes of calculating voting rights, the following voting rights are to be disregarded:		
		(1)	any voting rights which such a *person* exercises (or controls the exercise of) independently in its capacity as: bare trustee, investment manager, collective investment undertaking or a *long-term insurer* in respect of its linked long-term business if no *associate* of that *person* interferes by giving direct or indirect instructions, or in any other way, in the exercise of such voting rights (except to the extent any such *person* confers or collaborates with such an *associate* which also acts in its capacity as investment manager, collective investment undertaking or *long-term insurer*); or	
		(2)	any voting rights which a *person* may hold (or control the exercise of) solely in relation to the direct performance, by way of business, of:	
			(a)	underwriting the issue or sale of *securities*; or

			(b)	placing *securities*, where the *person* provides a firm commitment to acquire any *securities* which it does not place; or
			(c)	acquiring *securities* from existing shareholders or the *issuer* pursuant to an agreement to procure third-party purchases of *securities*;
			and where the conditions below are satisfied:	
			(i)	the activities set out in (2)(a) to (c) are performed in the ordinary course of business;
			(ii)	the *securities* to which the voting rights attach are held for a consecutive period of 5 *trading days* or less, beginning with the first *trading day* on which the *securities* are held;
			(iii)	the voting rights are not exercised within the period the *securities* are held; and
			(iv)	no attempt is made directly or indirectly by the *person* to intervene in (or attempt to intervene in) or exert (or attempt to exert) influence on the management of the *issuer* within the period the *securities* are held.
…				
group		(1)	(except in ~~*LR* 6.1.4AG, *LR* 6.1.19R, *LR* 6.1.20BG~~ *LR* 6.4.3G, *LR* 6.5.3G, *LR* 6.14.3R, *LR* 6.14.4G, *LR* 8.7.8R(10), *LR* 14.2.2R, *LR* 14.2.3AG, *LR* 18.2.8R and *LR* 18.2.9AG) an *issuer* and its *subsidiary undertakings* (if any); and	
		(2)	(in ~~*LR* 6.1.4AG, *LR* 6.1.19R, *LR* 6.1.20BG~~ *LR* 6.4.3G, *LR* 6.5.3G, *LR* 6.14.3R, *LR* 6.14.4G, *LR* 8.7.8R(10), *LR* 14.2.2R, *LR* 14.2.3AG, *LR* 18.2.8R and *LR* 18.2.9AG), as defined in section 421 of the *Act*.	
…				
independent director		a *director* whom ~~a *new*~~ an *applicant* or *listed company* has determined to be independent under the *UK Corporate Governance Code*.		
…				
~~*new applicant*~~		~~an *applicant* that does not have any *class* of its *securities* already *listed*.~~		
…				
share		…		
shell company		as defined in *LR* 5.6.5AR.		

. . .	

Part 3: Cross-reference amendments to the Listing Rules sourcebook (LR)

(1) The table referred to in paragraph F of this instrument is as follows.

(2) The reference in column (2) of this Annex E is replaced with the reference in column (3) in the provision listed in column (1);

(3) Where a reference in column (2) appears in the provision listed in column (1) more than once, all references set out in column (2) are replaced with the reference in column (3) in the provision listed in column (1).

Cross reference updates		
(1) LR section where cross-reference appears	**(2) Cross-reference to be amended**	**(3) New cross-reference**
5.4A.13G	LR 6.1.16R	LR 6.7.1R
5.6.21R	LR 6.1.3R(1)(b) and LR 6.1.3R(1)(e)	LR 6.2.1R(3) and LR 6.2.4R(2)
5.6.22G	LR 6.1.3R(1)(b) LR 6.1.3R(1)(e)	LR 6.2.1R(3) LR 6.2.4R(2)
8.4.1R	LR 6.1.1AR	LR 6.1.1R(1) or LR 6.1.1R(2)
8.4.7R	LR 6.1.1AR	LR 6.1.1R(1) or LR 6.1.1R(2)
9.2.15R	LR 6.1.19R	LR 6.14.1R to LR 6.14.3R
9.2.15AG	LR 6.1.19R	LR 6.14.1R
11.1.1AR(3)	LR 6.1.4CR(2)(a) LR 6.1.4BR(1)	LR 6.5.5R(2)(a) LR 6.5.4R
13.5.27CR	LR 6.1.3AG	LR 6.2.5G
15.2.1R(2)(a)	LR 6.1.3R(1)(d) LR 6.1.3R(1)(e)	LR 6.2.4R (1) LR 6.2.4R (2)
15.2.1R(2)(b)	LR 6.1.3R(2)	LR 6.2.6R
15.2.1R(2)(c)	LR 6.1.16R to LR 6.1.25R and LR 6.1.28R	LR 6.7.1R, LR 6.9.1R(1), LR 6.9.2R, LR 6.14.1R to LR 6.14.5G, and LR 6.15.1R.
16.2.1R	LR 6.1.22R	LR 6.8.1R to LR 6.8.2R

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