

# Primary Market Technical Note

## Sponsors – Practical implications of competence requirements for sponsors and applicants

The information in this note is designed to help issuers and practitioners interpret our UK Listing Rules, Prospectus Regulation Rules, Disclosure Guidance and Transparency Rules, and related legislation. The guidance notes provide answers to the most common queries we receive and represent FCA guidance as defined in section 139A FSMA

### Rules and Guidance

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UKLR 24.4.5R; UKLR 24.4.9G; UKLR 24.4.10R; UKLR 24.4.12R; UKLR 24.4.14G; UKLR 24.4.15G; UKLR 24.4.16G; UKLR 24.4.17G; UKLR 24.4.13G; UKLR 24.4.18G; UKLR 24.4.19G; UKLR 24.4.20R; UKLR 24.4.20G; UKLR 24.4.28R; UKLR 24.5.10R.

### Competence requirements

The requirement for a sponsor to be competent is a continuing obligation (UKLR 24.4.10R). The competence requirements for sponsors and applicants for sponsor approval can be found in UKLR 24.4.12R to UKLR 24.4.20G.

## Considerations relating to sponsor competence

This Note is intended to assist sponsors or applicants for sponsor approval in considering whether the firm meets, or continues to meet, the rules requiring sponsors to be competent to provide sponsor services at all times. We have set out below a number of questions and answers, some of which will only be relevant to new applicants, and some of which will also be applicable to existing sponsors. This Guidance will be particularly relevant to existing sponsors when completing their Annual Notification Form (AN) and to applicants for sponsor approval when completing an application form (New Applicant Form).

(a) We haven't submitted a sponsor declaration of the type specified in UKLR 24.4.12R(1)(a) in almost five years. Can we rely on other relevant experience and expertise? What action should we take?

UKLR 24.4.12R(1) requires a sponsor or applicant for sponsor approval to have a sufficient amount of relevant experience and expertise. A sponsor can meet this requirement by demonstrating that it has submitted a sponsor declaration to the FCA in the last five years (UKLR 24.4.12R(1)(a)(ii)). An applicant for sponsor approval can meet the requirement by demonstrating that it has submitted a sponsor declaration to the FCA within five years of the date of its application. (UKLR 24.4.12R(1)(a)(i)). In either case, a sponsor or applicant for sponsor approval may look through to its employees' material involvement in sponsor services requiring a sponsor declaration to demonstrate this experience (UKLR 24.4.14G).

Sponsors and applicants for sponsor approval should note that a sponsor declaration in this context means, a declaration that covers confirmations concerning compliance with the UK Listing Rules, Prospectus Regulation Rules and Disclosure Guidance and Transparency Rules sourcebooks and, where relevant, the effect of the transaction on the issuer and the sufficiency of working capital. Specifically, it will only include a declaration submitted by a sponsor as required under UKLR 24.3.3R (New applicants; procedure), UKLR 24.3.7R (Further issues; procedure), UKLR 24.3.11R (Circulars; procedure) or UKLR 24.3.12R (Applying for transfer between listing

categories). Therefore, any declaration or confirmation given in relation to the production of an announcement in connection with an initial transaction under UKLR 24.3.15R or in relation to UKLR 4.2.1R(5) (sponsor appointment where there has been, or may be, a breach of the listing rules, the disclosure requirements or the transparency rules) will not be relevant for satisfying this requirement.

However, UKLR 24.4.12R (1)(b) also allows a sponsor or applicant for sponsor approval to meet this part of the sponsor competence requirements without having previously submitted a sponsor declaration or relying on looking through to employees that have previously had material involvement in sponsor services requiring a sponsor declaration. In this case, a sponsor or applicant for sponsor approval will need to meet the requirement by reference to its provision of sufficient relevant corporate finance advisory services to persons with (or applying for) admission of securities to a UK recognised investment exchange, or a market established under the rules of a UK recognised investment exchange and with a minimum aggregate market value (or expected aggregate market value) of at least the amount required by UKLR 3.2.7R(1)(a). UKLR 24.4.16G provides further guidance on factors the FCA may consider when determining whether a sponsor or applicant for sponsor approval satisfies this requirement, including the cumulative body of its experience and expertise providing relevant corporate finance advisory services and the range of skills, knowledge and experience evidenced through the provision of the services. In this context, one form of relevant corporate finance experience may be the firm's involvement in sponsor services that have not required a sponsor declaration.

Notwithstanding that UKLR 24.4.12R provides alternative methods for demonstrating experience and expertise, it is likely that the Primary Market Specialist Supervision team will be communicating with sponsors whom they have been able to identify as struggling to satisfy UKLR 24.4.12R(1)(a)(ii). However, we expect sponsors to build into their procedures an internal notification requirement that alerts management if the firm has not conducted a sponsor transaction resulting in the production of a relevant sponsor declaration for a period of time. Sponsors should be mindful that they remain under an obligation (UKLR 24.5.12R(1)(a)) to notify us as soon as possible if they cease to satisfy the criteria in UKLR 24.4.5R or become aware of any matter that, in their reasonable opinion, would be relevant to the

FCA in considering whether the sponsor continues to comply with UKLR 24.4.10R. In practice, we expect sponsors to contact us well before they are at risk of not meeting their obligations under UKLR 24.4.12R(1).

In most cases, sponsors at risk of not meeting the requirements of UKLR 24.4.12R(1) will seek to recruit to satisfy this requirement. For guidance on how our provisions for 'looking through' to employees apply to these situations, please see question (l) below on the application of UKLR 24.4.14G for new applicants and existing sponsors.

**(b) Is experience of providing a sponsor declaration over 5 years ago relevant in the context of the FCA considering sponsor competence?**

To meet UKLR 24.4.12R(1)(a) a sponsor or applicant to become a sponsor must have submitted a sponsor declaration within the previous 5 years or within 5 years of the date of its application, respectively. However, that is not to say that experience of submitting sponsor declarations outside of this timescale is not relevant when considering a person's competence to be a sponsor. Experience of this sort may be relevant to demonstrating general skill and understanding of the responsibilities of a sponsor for the purposes of UKLR 24.4.12R(2)(b).

**(c) How much and what type of corporate finance advisory experience is necessary to satisfy UKLR 24.4.12R(1)(b)?**

UKLR 24.4.12R(1)(b) allows a sponsor or an applicant for sponsor approval to meet part of the sponsor competence requirements without having previously submitted a sponsor declaration or relying on looking through to employees that have previously had material involvement in a transaction involving a sponsor declaration. In this case, a sponsor or applicant for sponsor approval will need to meet the requirement by reference to its provision of sufficient relevant corporate finance advisory services to issuers meeting certain criteria. UKLR 24.4.16G provides further guidance on factors the FCA may consider when determining whether a sponsor or applicant for sponsor approval satisfies this requirement, including the cumulative body of

its experience and expertise providing relevant corporate finance advisory services and the range of skills and knowledge evidenced through the provision of the services. The factors outlined in UKLR 24.4.16G are not exhaustive. When assessing a sponsor's or applicant for sponsor approval's ability to meet the requirements of UKLR 24.4.12R(1)(b), the FCA is interested to understand if the firm has sufficient experience analogous to the provision of sponsor services. In considering this, the FCA will consider whether the cumulative body of experience is relevant to the scale and nature of the sponsor services the firm expects to perform (UKLR 24.4.13G). For instance, a firm presenting several examples of having advised clients on the application of rules pertaining to mergers and acquisitions, even if these are sponsor services, may not be able to demonstrate to our satisfaction that it has expertise to provide sponsor services relating to the IPO of an issuer to which the sponsor regime applies. However, it may be sufficient for approval as a sponsor in relation to a more limited range of sponsor services, for example the provision of fair and reasonable opinions on related party transactions.

More generally, relevant corporate finance experience in the context of the requirement in UKLR24.4.12R(1)(b) encompasses a relatively broad range of activities including:

- acting as an IPO adviser in a role other than a sponsor. For example, as a financial adviser; an AIM nominated adviser; or Aquis corporate adviser,
- acting as a sponsor on services not requiring a declaration. For example, the provision of fair and reasonable opinions on related party transactions,
- acting as an adviser in the context of mergers and acquisitions, including acting as an adviser for the purposes of the Takeover Code.

The FCA will also take into account the volume of experience. In considering the body of experience presented to us, we expect a sponsor or applicant for sponsor approval to be able to demonstrate multiple examples of its work on corporate finance advisory services.

We expect that experience to demonstrate a consistent ability to advise issuers meeting the criteria specified in UKLR 24.4.12R (1)(b)(i) and (ii) on rules and guidance issued by a regulator or exchange, to adhere to the procedural requirements and processes of a regulator or exchange, to undertake due diligence to support assurances given to a regulator or exchange and to verify public statements made by an issuer.

(d) To demonstrate we have provided sufficient relevant corporate finance advisory services to satisfy the requirements in UKLR 24.4.12R(1)(b), why must such services have been provided to issuers with a specified minimum market value?

We want to ensure that the experience that a firm can demonstrate is analogous to the provision of sponsor services. We consider relevant experience to be that which approximates most closely the scale and complexity of transactions relating to companies to which the sponsor regime applies. Whilst we acknowledge that small businesses can involve complexity, and advisory experience in relation to them can demonstrate skill and understanding of regulation, we generally see a number of characteristics relating to listed companies changing with the scale of a business, including the complexity of the systems, controls, governance, management and financial reporting, regulation and geographical operations. That is not to say that advisory experience with smaller issuers is not relevant at all when considering sponsor competence. For instance, it may be relevant when supporting a proposition that a firm meets the requirement in UKLR 24.4.12R (2)(b).

(e) UKLR 24.4.14G and UKLR 24.4.17G indicates that in order to meet the requirements in UKLR 24.4.12R, you may 'look through' to individuals to satisfy this requirement. What does this mean? Is this only relevant to new applicants for sponsor approval?

At the point of application, an applicant for sponsor approval is unlikely to be able to satisfy the requirement of UKLR 24.4.12R(1)(a)(i) as it would not have submitted a sponsor declaration to the FCA. UKLR 24.4.14G indicates that for the purposes of complying with UKLR 24.4.12R(1)(a) individuals will be viewed as representing the experience

and expertise of the firm for the purposes of the provision of a sponsor declaration. In UKLR 24.4.14G we have highlighted that we will consider whether any of the applicant's employees have had material involvement in the provision of sponsor services that have required the submission of a sponsor declaration within the previous five years.

This guidance may also be relevant to existing sponsors that, due to low activity, wish to rely on newly recruited personnel in order to satisfy the requirement of UKLR 24.4.12R(1)(a)(ii).

We expect to derive a similar level of comfort from 'looking through' to individuals as we would from a sponsor having submitted a declaration. By this we mean that, in order to rely on a 'look through' pursuant to UKLR 24.4.14G, an applicant for sponsor approval or existing sponsor unable to meet UKLR 24.4.12R(1)(a), should retain relevant employees who understand the process behind a sponsor declaration, what our expectations are in terms of reaching a reasonable opinion after due and careful enquiry, and what obligations apply to a sponsor before submitting a declaration. This should be evidenced at least through an employee's appropriate level of involvement in submitting a sponsor declaration at their previous employer (being an approved sponsor), thereby demonstrating an understanding of these requirements.

We would therefore not consider the following examples, by themselves, to demonstrate an appropriate level of involvement:

- *Signing a sponsor declaration*: sponsor declarations are given by firms, not individuals. Declarations are required to be signed by a duly authorised officer of the sponsor; individuals completing the form on behalf of the sponsor may not have been involved in the execution of any of that sponsor service and may have been providing an executive or peer-review function at their previous employer. While the expectation is that the individual signing the declaration has sufficient understanding of the sponsor regime to provide sufficient comfort that the sponsor requirements have been complied with, we would not assume this is the case based solely on the execution of that declaration.

- *Submitting documents to the FCA:* we recognise that someone making submissions to the FCA during the course of a sponsor service may not have the requisite skills in order to satisfy this requirement, and therefore we cannot make the assumption that being a contact for a transaction will satisfy this requirement.

Similar to UKLR 24.4.14G, UKLR 24.4.17G recognises that a sponsor or applicant for sponsor approval that is seeking to demonstrate its experience and expertise by meeting the requirements in UKLR 24.4.12R(1)(b), may look through to the involvement of its employees in the provision of relevant corporate finance advisory services. In particular, the FCA will expect the relevant employees to have had a material involvement in the relevant services. UKLR 24.4.16G describes the factors the FCA may consider when a sponsor or applicant for sponsor approval seeks to rely on the corporate finance advisory experience of its employees to satisfy UKLR 24.4.12R(1)(b). The FCA is likely to want to understand the precise involvement of employees in the relevant services, with specific reference to the tasks and responsibilities referred to in UKLR 24.4.16G(2)(a),(b) and (c). Practically speaking, a senior individual who has little involvement in the detailed consideration of rules and guidance of, or interactions with, a regulator or exchange may not meet this requirement. Equally, an employee performing due diligence or verification tasks but with no responsibility for making material judgements on the relevant service may also not meet this requirement.

(f) [We have experience in relation to a particular specialist industry sector or company type. Is it possible to be approved as a sponsor on the basis of providing sponsor services on a limited basis?](#)

UKLR 24.4.13G explains that the FCA will take into account a range of factors relating to a sponsor's or applicant for sponsor approval's business and operations when assessing whether a sponsor meets the competence requirements. This is because the FCA expects that sponsors will have expertise that is relevant to the scale and nature of the sponsor services it expects to perform.

In April 2013, the FCA received powers ((s88(3)(e) FSMA) that enabled us to approve sponsors with restrictions or limitations. UKLR



24.4.9G provides for firms who wish to apply on a limited approval basis. We recognise that one area where firms may wish to specialise is by providing sponsor services only to listed closed-ended investment funds to which the sponsor regime applies. The competence requirements set out in UKLR 24.4.12R are the same for any new applicant or sponsor. However, recognising that the regime for listed closed-ended investment funds differs significantly from listed commercial companies in some areas, we expect a firm wishing to provide sponsor services only to closed-ended investment funds to request a limitation on its approval. Further guidance in relation to limitations and restrictions can be found in TN/712. Otherwise, the FCA expects that most sponsors will provide a full range of sponsor services, and consequently that sponsors or applicants for sponsor approval will demonstrate experience, expertise, skills and knowledge across a wide range of company and transaction types when satisfying the competence requirements in UKLR 24.4.12R. The FCA will consider on a case-by-case basis whether a sponsor or applicant for sponsor approval might be able to meet the competence requirements on a more limited basis, and whether a limitation or restriction using our powers is appropriate.

(g) We have experience of providing sponsor services to listed closed-ended investment funds to which the sponsor regime applies but have only acted for commercial companies in corporate advisory roles other than a sponsor role. We wish to apply for sponsor approval. Can we meet the criteria for approval without being subject to a restriction or limitation?

Should an applicant for sponsor approval be able to demonstrate that it has submitted a declaration in the previous five years on a sponsor service for a listed investment company, either on a firm basis or on a 'look-through' basis, it will meet the requirements of UKLR 24.4.12R(1)(a). UKLR 24.4.13G explains that the FCA will take into account a variety of factors relating to a sponsor's or applicant for sponsor approval's business and operations when assessing whether a sponsor meets the competence requirements. This is because the FCA expects that sponsors will have expertise that is relevant to the scale and nature of the sponsor services it expects to perform. An applicant

for sponsor approval with only investment company experience is expected to request a limitation of its approval.

However, an applicant for sponsor approval may be able to demonstrate that it has a sufficient body of experience providing relevant corporate finance advisory services to a wider range of company types such that it can satisfy UKLR 24.4.12R(1)(b). The FCA would also need to be satisfied that the firm has the necessary skills and knowledge to meet the competence requirements in UKLR 24.4.12R(2) and that it has a sufficient number of key contacts who can meet our expectations set out in UKLR 24.4.19G.

### (h) What should we take into account when considering UKLR 24.4.12R(2)(a)?

UKLR 24.4.12R(2)(a) requires a sponsor, or a person applying for approval to act as sponsor, to have a sufficient number of employees with the skills, and knowledge necessary for it to provide sponsor services in accordance with UKLR 24.2. The Principles for Sponsors in UKLR 24.2 (Principles) set out what we see as the role of a sponsor and five key principles that should apply to that role.

These are:

- carrying out sponsor services with due care and skill
- acting with honesty and integrity
- ascertaining whether directors understand their obligations under the LRs and DTRs
- being open and cooperative with the FCA, dealing with all enquiries raised by the FCA promptly and, in connection with a sponsor service, raising any failure by its client or itself to comply with the LRs and DTRs of which it is aware, and
- identifying and managing conflicts of interest affecting a sponsor's ability to provide sponsor services or affecting market confidence in sponsors.

We expect a sponsor to have considered the scope of the role and the responsibilities that sponsors are subject to when seeking to fulfil that role in accordance with these Principles.

When considering whether a sponsor has an appropriate number of skilled employees for the purposes of UKLR 24.4.12(2)(a), we expect a sponsor or person applying for sponsor approval to consider whether, inter alia:

- the number of employees within the organisation will be able to staff the expected pipeline of transactions without compromising the performance of those services to the requisite standard of professional care
- the employees providing sponsor services have sufficient skills and knowledge to identify and communicate the directors' obligations to them
- the employees providing sponsor services understand the requirement for sponsors to conduct an open and co-operative relationship with the FCA, and
- the staffing model for the sponsor function allows the sponsor to identify and manage any potential conflicts of interest in order to allow them to act for current and potential clients.

(h) When applying to be a sponsor, does the FCA require us to explain how we are able to meet the requirements of UKLR 24.4.12R(2)? What information do you require on staffing?

As an applicant for sponsor approval, we would expect to review the full staffing proposition of the business that is to provide sponsor services. We require an applicant for sponsor approval to make a submission setting out how it considers itself able to meet the requirements of UKLR 24.4.12R(2) and how it is able to demonstrate that the sponsor function meets our requirements in relation to all the identified competency sets. Persons considering applying for approval as a sponsor can find the relevant form on our website<sup>1</sup>. We expect, as part of that submission, to be provided with, inter alia:

- a list of staff providing sponsor services
- an organogram of the sponsor function
- an analysis of how the proposed sponsor function meets the requirement of UKLR 24.4.12R(2)
- an explanation of how transactions are expected to be staffed

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<sup>1</sup> <https://www.fca.org.uk/markets/primary-markets/sponsor-regime/apply-become-sponsor>

- what reporting lines and control functions are put in place to ensure compliance with UKLR 24.4.21R (taking into account UKLR 24.4.13G), and
- identification of the employees able to meet the key contact requirements in UKLR 24.4.28R together with an explanation as to how they meet those requirements.

(j) What is the minimum number of employees an applicant for sponsor approval needs to retain in order to be approved as a sponsor?

Our rules relating to sponsor competence require a sponsor to maintain a sufficient number of skilled employees (UKLR 24.4.12R(2)), in other words, adequacy of resource. Applicants for sponsor approval will need to determine whether they have sufficient resource to meet their expected business activity, in light of the guidance set out in UKLR 24.4.13G, and whether they will be able to provide sponsor services in accordance with the Principles for Sponsors, including the need to provide sponsor services with due care and skill. Although UKLR 24.4.19G indicates that in order to be competent, we would expect a sponsor to have a minimum of two employees capable of performing the role of key contact in order to minimise key person risk, a sponsor will need to consider the number of key contacts it needs in the context of its business model and activity levels (UKLR 24.4.13G). This may require a sponsor to staff its operations with significantly more than the two employees capable of acting as key contacts set out in UKLR 24.4.19G.

(k) How can we demonstrate our ability to comply with the requirements set out in UKLR 24.4.12R(2)(b) relating to competency sets?

The competency sets articulate five areas in which we expect sponsors, or those applying for approval to act as sponsor to have relevant skills and knowledge. These are:

- the rules and guidance directly relevant to sponsor services;
- the procedural requirements and processes of the FCA
- the due diligence process required in order to provide sponsor services in accordance with UKLR 24.2 and UKLR 24.3

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- the responsibilities and obligations of a sponsor set out in UKLR 24, and
- specialist industry sectors and/or certain types of company, if relevant to the sponsor services it provides or intends to provide.

TN/714 provides a description of the types of skills and knowledge that we expect sponsors to consider when assessing their understanding of each of these competency sets; depending on a sponsor's business model, it may wish to consider other relevant areas. However, we consider the competency sets listed above to be the core abilities a sponsor should be able to demonstrate when assessing whether it is competent to carry out sponsor services.

Our expectation is that, on an annual basis, in preparing for the submission of the Sponsor Annual Notification Form (AN) in accordance with UKLR 24.5.10R, those responsible for the sponsor function within their firms will consider the skills, and knowledge of those performing sponsor services, with reference to the descriptions set out in TN/714 and form a view, based on the factors set out in UKLR 24.4.13G, as to whether they have a sufficient number of employees who can demonstrate the required skills, knowledge and expertise. Further guidance on our expectations of this assessment is set out below.

### (I) Do you expect us to assess individuals against the competency sets?

We do not expect sponsors or applicants for sponsor approval to perform a detailed assessment of each individual's understanding of each competency set. However, we would expect any sponsor assessing compliance with UKLR 24.4.5R(2) to document how they reached a view that the sponsor function, as a whole, is competent to provide sponsor services with reference to each competency set. In firms where the sponsor role is carried out by a limited number of employees, more consideration is likely to be given at an individual level to the ability of the sponsor to meet the requirements of UKLR 24.4.12R(2)(b).

We envisage that a sponsor will, in performing the assessment of the function carrying out sponsor services, draw on their knowledge of

those employees' skills, work experience on sponsor services and other corporate finance activity and recent training. We would also expect those performing the assessment to consider any potential gaps in knowledge that they might identify, to consider 'key person risk' and/or possible succession planning, and to reflect on any pertinent feedback that they may have received from the FCA during the performance of sponsor services. Where a sponsor is of the view that it may not meet the requirements of UKLR 24.4.10R, it should contact the Primary Market Specialist Supervision team as soon as possible.

(m) Will you expect each employee involved in the provision of sponsor services to be able to demonstrate an understanding of all the competency sets as set out in UKLR 24.4.12R(2)(b)?

We are aware that sponsors do not all conduct their business in the same way, often using different staffing or management models. We are also aware that, when a firm acts as a sponsor, there will not necessarily be a separate business unit acting 'as sponsor'. Firms may identify employees from a number of different business areas to carry out sponsor services, or function as a sponsor. Depending on the type of service offered and the structure of the sponsor firm, the employees identified may each hold different skill sets and bring different skills and knowledge to the sponsor team performing the sponsor service. Therefore, we do not expect each employee to be able to demonstrate an understanding of all competency sets.

However, a sponsor is required to have systems and controls in place regarding 'appropriate staffing arrangements': this requirement in UKLR 24.4.21R(5) seeks to ensure that sponsors consider the ability of the execution team allocated to the sponsor service to comply with the requirements of UKLR 24, including the Principles for Sponsors in UKLR 24.2. Therefore, a sponsor should be structured in such a way as to ensure that the approach to staffing sponsor services takes into account the need to consider whether each client or transaction team providing a particular sponsor service is able to meet all competency sets. This does not mean that sponsors will need to restructure their businesses or the way in which they provide corporate finance advisory services to their clients, but rather that sponsors will need to consider the staffing of each sponsor service in order to determine whether the team allocated to the matter is able, as a whole, to meet our

requirements as well as those of their client. This will therefore necessitate a sponsor assessing its ability to meet the requirements of UKLR 24.4.12R(2)(b) on an ongoing basis as well as on a transactional basis.

(n) Do we need to keep a record of our assessment of competence? What level of records do we need to keep to evidence the steps we have taken to comply with these obligations?

Sponsors are required to keep records of their assessment of competence and to provide evidence to support that assessment and an annual confirmation that they satisfy the criteria for approval (UKLR 24.5.10R(1) and UKLR 24.5.10R(2)), including the competence requirements set out in UKLR 24.4.12R. In addition, sponsors are also required to keep records of the steps that they have taken to comply with their obligations under UKLR 24.4.10R (UKLR 24.4.25R(5)).

Clearly, the level of detail that a sponsor is expected to record when meeting these obligations, particularly in relation to any competence assessment, will differ depending on the size of the firm, the sectors in which it operates and its level of activity. To assist with their record-keeping obligations in this area, sponsors may wish to use the AN as a record of the steps that they have taken to comply with their obligations under UKLR 24.4.25R(5) and UKLR 24.5.10R(2). To this end, the AN includes prompts for sponsors to consider when completing the form. Should sponsors wish, they may of course retain more detailed records underpinning their considerations of compliance with these requirements. This may be the case where the firm already carries out a more in-depth review process of staff or their function for their own or other regulatory purposes.

The AN sets out each of the criteria for approval as a sponsor, as well as the more detailed components of the competence requirements (UKLR 24.4.12R), including the competency sets. Under each requirement, the form provides space for sponsors to record, using free text, how they believe that they are able to meet the requirements. As an example, we set out below an illustration of the type of text a sponsor may provide in relation to the first competency set (UKLR 24.4.12R(2)(b)(i)).

Extract from the AN: Example text



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### i. Understand :

#### 1. the rules and guidance directly relevant to sponsor services

*(please provide details of the area of the business or identified staff that the sponsor relies on to demonstrate compliance with this requirement and an indication of how the sponsor is able to demonstrate the skills and knowledge required, including transactional and advisory experience as well as any relevant training or other resource).*

[Sponsor] relies on the employees within the sector teams of the Investment Banking division (IBD) in the London office to provide expert knowledge of the LRs, DTRs and PRRs. In particular, the Real Estate, Retail and Extraction teams carry out the bulk of our sponsor services and we ensure staff in our specialist execution team who also undertake sponsor services on a regular basis, provide support where other sector teams intend to undertake sponsor services. In order to ensure that these teams retain up-to-date knowledge of the relevant rules and guidance we undertake the following:

1. We assess on an annual basis the transactional experience of the teams gained acting for FTSE 350 companies and in particular we identify where the service provided has been a sponsor service. For a breakdown of transaction experience (including the names of those involved in the performance of the service) we would refer you to our response to Q12 in Part B of this form.
2. We retain two law firms on an ongoing basis to update us on regulatory changes and to provide us with bespoke training on hot topics arising in relation to the provision of corporate finance advisory services including carrying out the role of sponsor. Details of training provided to IBD and supporting functions this year are set out in Qx below.
3. We have embedded compliance resource within IBD that ensures that staff providing or likely to provide sponsor services are briefed on regulatory changes, including guidance and other publications from which are relevant to the provision of sponsor services.
4. We hold weekly WIP meetings for IBD in order to disseminate knowledge gained on live transactions concerning, amongst other things, interactions and expectations of the FCA.
5. We currently act as broker to six FTSE 250 clients whom we regularly advise on announcement and other disclosure obligations.

The above example is modelled on a large integrated firm that is an approved sponsor. Given the differing types of firms approved as sponsors, the level of detail and evidence relied on is likely to differ from sponsor to sponsor. For instance, a firm operating a corporate-



broking business model, or an advisory-only business, may rely on a smaller core team of employees to conduct sponsor services. Such sponsors may seek to demonstrate compliance with UKLR 24.

4.12R(2)(b)(i) by making similar submissions as above in relation to transaction experience (paragraph 1), internal dissemination of information (paragraph 4) and other experience of providing advice on the UK Listing Rules, Prospectus Regulation Rules and Disclosure Guidance and Transparency Rules sourcebooks (paragraph 5).

However, they would describe differing approaches to training and compliance (paragraphs 2 and 3) and staffing of transactions, which may rely more on key individuals, such as directors, rather than team structures as in the example above. Ultimately, however, those responsible for the assessment will need to demonstrate that they have a reasonable basis on which to provide the confirmation that they continue to meet the criteria for approval, including the competence requirements.

In the case of an applicant for sponsor approval that hasn't performed sponsor services previously, the firm may look through to the experience of its employees in demonstrating an understanding of the competency sets, including skills and knowledge that employees may have gained in other roles. An applicant for sponsor approval may also place reliance on training and internal knowledge sharing, where employees with relevant skills and knowledge are able to build and support the understanding of other employees.

(o) How do we comply with UKLR 24.4.12(2)(b)(v), which requires a sponsor to have an understanding of specialist industry sectors and/or certain types of company, where relevant to the sponsor's business?

As set out in TN/714 where a sponsor intends to provide sponsor services to an issuer in a specialist industry sector, such as the mineral or property sectors, or that is a specialist type of company, such as an investment company, it is important that the sponsor is able to demonstrate a sufficient understanding of that sector or company type to be able to provide sponsor services effectively.

We recognise that a sponsor or applicant for sponsor approval may be able to demonstrate its understanding of a specialist industry sector or

company type in a number of ways. It is possible that some sponsors or applicants for sponsor approval are structured in a way that recognises specialist industry sector or company expertise and, as such, are able to meet this requirement relatively easily. In other cases, it may be necessary for the sponsor or applicant for sponsor approval to draw together specialists from other areas of the firm, such as colleagues in different jurisdictions or with expertise in a particular area. In some cases a sponsor may need to consider how best to enhance existing knowledge within the firm by making use of external specialists. It may also be necessary for the sponsor or applicant for sponsor approval to arrange additional training for the team involved.

### (p) Can we have more than one key contact on a transaction?

In relation to a live sponsor service, the sponsor should allocate only one key contact to that service. As the allocated key contact will have the authority to make representations for and on behalf of the sponsor, we believe it is important that we are able to place reliance on, and ensure continuity through, the use of that one named key contact. However, we recognise that key contacts may need to draw on other experience within the sponsor firm during the course of the sponsor service.

Should sponsors consider there to be a need to use an alternate key contact, it is up to the sponsor to notify the FCA as and when they consider appropriate as to the identity of the alternate contact. For instance, there may be circumstances, such as sickness or holiday absence, where the allocated key contact may not be available. In any event, the sponsor should inform the FCA of an alternate key contact as soon as possible to ensure that the sponsor is able to comply with UKLR 24.4.28R during the provision of a sponsor service.

We do not prescribe that all communications with the FCA must be through the key contact identified for a particular matter for more guidance on this, please refer to question (r) below.

(q) Do we need to identify key contacts on an annual basis or on a transaction basis?

Each time a sponsor provides a sponsor service requiring the submission of a document or contact with the FCA, it must identify a key contact (UKLR 24.4.28R(1)). However, in order to ensure a suitable level of resource at all times, sponsors are required to retain a sufficient number of employees who are able to meet the requirements of UKLR 24.4.28R in light of the expected pipeline of sponsor work (UKLR 24.4.12R(2)(c) and UKLR 24.4.13G).

Our expectation is that sponsors will be able to identify employees capable of acting as key contacts on an ongoing basis and provide details of those individuals in each AN submitted. As set out in UKLR 24.4.19G, as a minimum, we would expect a sponsor to identify two employees who are qualified to carry out the key contact role. Sponsors may identify more employees in their AN and may, at any point, notify the FCA of additional key contacts. This can be communicated directly to the Primary Market Specialist Supervision team. Where the FCA considers that more key contacts are required than the number identified in the AN, we may seek to challenge and discuss this with the sponsor. It should be noted that, as a key contact is required to be sufficiently knowledgeable about the client and the transaction or matter that is the subject of the sponsor service, our expectation is that the key contact is drawn from the transaction or client team providing the sponsor service.

(r) What level of involvement do you expect from a key contact on a sponsor service?

The purpose of the key contact requirements set out in UKLR 24.4.28R is to ensure that when a sponsor acts on a sponsor service, it is communicating with us through appropriately skilled and experienced staff who have the authority to make representations on behalf of the sponsor. UKLR 24.4.28R sets out the specific requirements for key contacts, highlighting that they must be knowledgeable about the issuer and matter under consideration, that they should be available to answer queries from the FCA during specified hours, are authorised to make representations to the FCA for and on behalf of the sponsor and that they are able to demonstrate an understanding of two

specified competency sets. In selecting an individual to act as a key contact on a sponsor service, we would expect a sponsor to take into account the nature of the transaction or service being provided when putting staffing arrangements in place, including the identification of a key contact.

We expect a key contact to be involved in communications with the FCA that require, or may require, the sponsor to provide confirmations or explanations on which we will rely in order to determine compliance with the UK Listing Rules, Prospectus Regulation Rules and Disclosure Guidance and Transparency Rules sourcebooks.

For example, this could include calls to discuss comments raised by the document vetting process that relate to matters covered by the sponsor declaration such as working capital, or questions concerning the issuer's compliance with a necessary disclosure in a public document, or discussions in relation to eligibility matters. We would also expect the key contact to play a role in the preparation or review of any written submissions to the FCA as that individual will need to be available to answer any queries we may have on these types of communications. However, as key contacts are required to be able to make representations on behalf of the sponsor, our expectation is that they will be likely to hold a more senior position in the firm. We would not expect a key contact to be involved in every call or communication with the FCA, as we recognise that some discussions may be more administrative in nature or relatively straightforward and, as such, capable of being dealt with by other members of the team. We will endeavour to ensure that calls where a key contact should be in attendance are flagged to the sponsor. However, ultimately we will expect sponsors to use judgement when considering whether a key contact should be involved in a particular communication.

(s) What happens if employees providing sponsor services, including key contacts, leave the firm? Will we still be competent?

The number of employees who are capable of meeting the key contact requirements must be proportionate to a sponsor's business and operations (UKLR 24.4.13G), with the caveat that we expect all sponsors to retain at least two employees capable of acting as a key contact (UKLR 24.4.19G). Sponsors may be able to replace an

employee who is a key contact from existing staff in which case they will continue to satisfy UKLR 24.4.12R(2)(c).

However, should any employee providing sponsor services leave a firm, whether or not they are a key contact, the sponsor must consider whether they are staffing sponsor services in a way that allows them to continue with fewer personnel or whether they need to consider recruiting further staff in order to satisfy the requirements set out in UKLR 24.4.12R(2).

A sponsor must notify the Primary Market Specialist Supervision team of any material changes in personnel under UKLR 24.5.12R(1) should the departure impact on the sponsor's ability to satisfy the criteria for approval (UKLR 24.4.5R). Where we believe that remedial steps can be taken in the short term, a sponsor may seek to suspend its sponsor activity until such time as it can recruit further staff or take other steps in order to satisfy these requirements. Where it is unlikely that a sponsor will meet these requirements, a sponsor may need to consider seeking a cancellation of its approval.