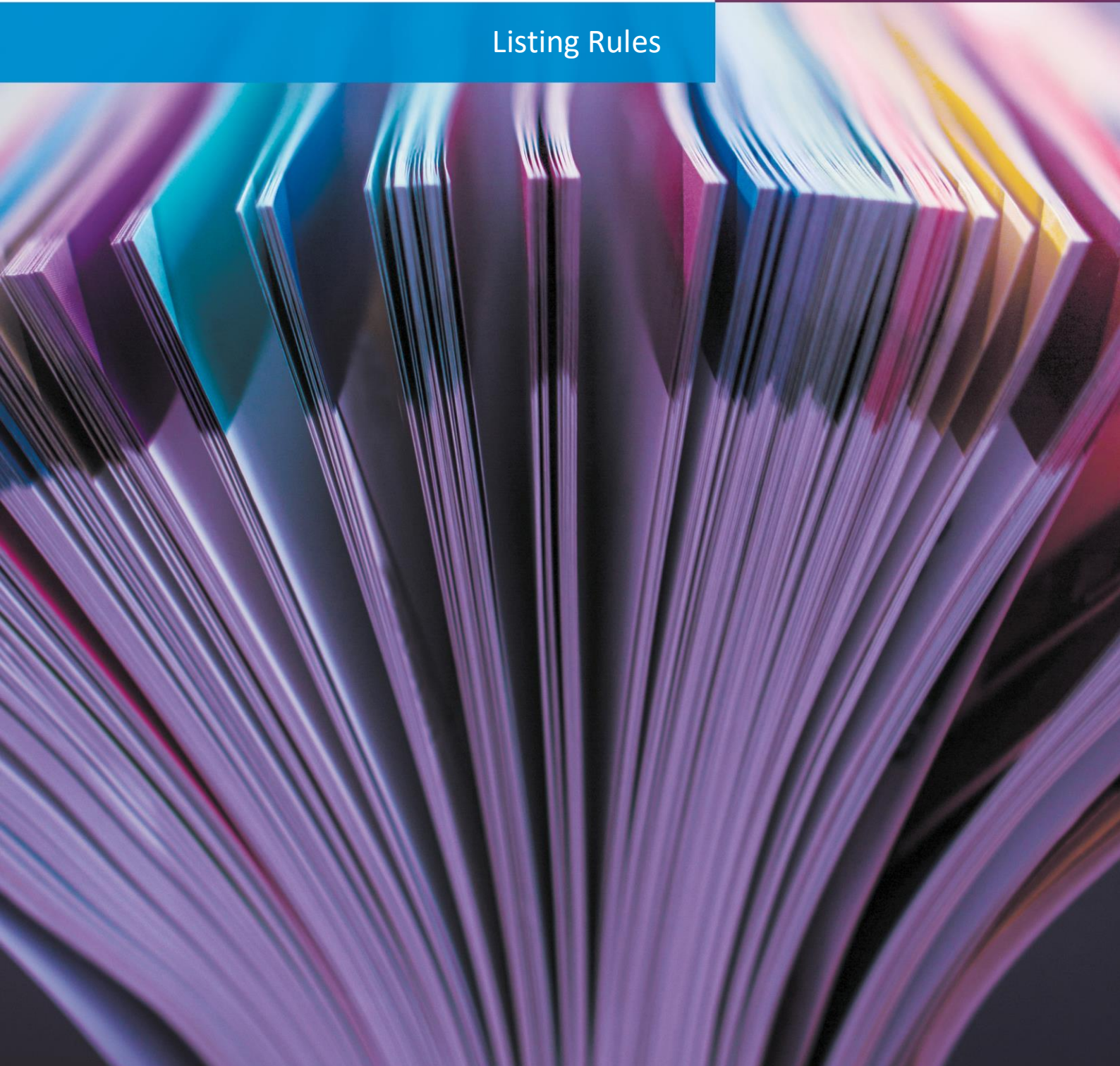


Listing Rules

9 April 2024

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FCA publishes second tranche of new UK Listing Rules sourcebook

The Financial Conduct Authority ("FCA") set out proposals to reform its current Listing Rules sourcebook ("LR") in its consultation paper published in May 2023 (CP23/10), and subsequent consultation paper (CP23/31) reporting on feedback received. Fieldfisher published an article on 22 January 2024, written by Adam Jones, with an overview of the proposals set out in CP23/31 (Consultation proposes far-reaching revamp of UK Listing Rules | Fieldfisher). The first tranche of rules, which will be set out in a completely new 'UK Listing Rules' sourcebook ("UKLR"), focusses on a new "commercial companies" category and sponsor regime ("First Tranche"). The second tranche, focussing on other listing categories and the remaining provisions impacting all issuers, was published on 7 March 2024 ("Second Tranche"). The consultation periods for the First Tranche and the Second Tranche have now passed, with the latter closing on 2 April 2024.

In summary, the broad aims of these proposals are to encourage a more diverse range of companies to list and grow on UK markets and to promote more investment opportunities for investors. This has been balanced with the need to maintain the FCA's approach to disclosure requirements for listed companies to ensure market integrity and investor confidence. The proposed changes seek to simplify the listing regime with a single listing category by removing the current 'premium' and 'standard' listing segments and designing a new 'commercial companies' category for equity share listings. By way of overview, please refer to the table below setting out the key proposals of both the First Tranche and the Second Tranche.

The following areas are covered by the Second Tranche in the draft UKLR instrument:

Commercial companies

- The foundation of the UKLR is the introduction of a single set of Listing Principles, combining the current Listing Principles and Premium Listing Principles with the following variations:
 - Premium Listing Principles 3 and 4 (equality and proportionality of voting rights) have been inserted as eligibility requirements;
 - alleviations for sovereign controlled issuers have been added in relation to admission to listing, continued obligations and related party transactions; and
 - transitional provisions have been included such that (mid-flight transactions), from the date on which the new Listing Rules come into force: (i) transactions will be classified in accordance with the criteria specified in the new UKLR rather than the Listing Rules and (ii) those that remain in scope of the new UKLR requirements will not be required to comply with any obligations in the current Listing Rules sourcebook that have not been carried forward to the new UKLR but will, predominantly, have to comply with the relevant obligations set out in the new UKLR.
- Additional guidance includes the following:
 - the reasonable steps required to establish and maintain adequate procedures, systems and controls to enable compliance with obligations;
 - dealing with the FCA in an open and co-operative manner;
 - how to deal with the FCA and publishing information;

- the process for admission to listing; and
- provisions relating to suspension, cancellation, restoration and transfer between listing companies.

Other categories

- Rules for all other categories (other than commercial) are also set out in Tranche 2:

- closed-ended investment funds (UKLR 11);
- open-ended investment funds (UKLR 12);
- Shell Companies (and SPACs) (UKLR 13)

A "shell companies category" is proposed that will create a new listing category for SPACs and other shell companies. This new category is generally based on LR14 (the current standard listing requirements) with various modifications (e.g. the sponsor regime applies to it). The scope, as set out in the draft instrument, is limited to shell companies with assets consist solely or predominantly of cash or short-dated securities, or whose predominant purpose or objective is to actively pursue a strategy of acquisition. It is intended that this new category will make it easier for investors to identify these companies;

- international commercial companies with secondary UK Listing (UKLR 14) broadly based on the existing standard listing segment requirements with a number of key additions to the eligibility requirements for companies seeking a listing on this category);
- GDR Issuers (UKLR 15);
- issuers with non-equity shares, debt, securitised derivatives, as well as warrants and options (UKLR 16 – 19);
- transition category issuers (UKLR 22); and
- particulars relating to listing applications for debt securities on the Professional Securities Market (UKLR 23).

Sponsor Rules

Additional rules relating to the sponsor requirements that will apply to the closed-ended investment funds and shell company categories have been added to UKLR 4 and UKLR 24.

The New Categories and Implementation

It is currently proposed that the existing premium listed issuers would automatically transition to the new commercial companies category at the point the new UK Listing regime goes live.

It is not quite as straightforward for standard listed commercial companies. Certain of them would map to a new 'transition' category, which would replicate existing standard listing continuing obligations but it is not a category open to new entrants. This category would have no fixed end date, instead, issuers will be able to apply to transfer to the commercial companies category only when and if they choose to do so. There is the possibility that this category may ultimately be removed as the number of issuers reduces but this proposal would be subject to consultation. Alternatively, other existing standard listed issuers would potentially move into the shell companies category and international secondary listing category, dependent on FCA analysis.

The consultation period for UKLR proposals regarding the replacement to the current LR sourcebook has now closed. Subject to the extent of the consultation feedback, approval of and/or amendments to the draft UKLR instrument and final decisions of the FCA Board, the following next steps are anticipated:

- changes in respect of sponsor competency requirements – mid Q2 2024;
- publication of a Policy Statement and final UKLR – start of second half of 2024;

- an implementation period of two (2) weeks before the new UKLR comes into force.

Summary

The intention is that the proposed approach will promote market integrity by continuing to support high standards of disclosure and transparency whilst creating conditions that make a UK listing a more compelling option for new applicants and less burdensome for existing listed companies. The hope is that reducing barriers and costs for companies may encourage a more diverse range of companies to list in the UK.

Overview of Reform Proposals¹

Listing Category or Topic	Key Features of Proposals	UKLR Chapter
Commercial companies (equity shares category)	Eligibility <ul style="list-style-type: none"> No listing requirements for historical financial information, revenue track record and clean working capital statements, although prospectuses will still require disclosure of financial track record up to 3-years and a working capital statement. Sponsor requirement for new applicants and to provide declarations similar to existing declarations, including that an issuer has met its prospectus obligations and has a reasonable basis for the working capital statement within it. 	UKLR 5
	Eligibility and continuing obligations <ul style="list-style-type: none"> Control and independence: Removing eligibility and ongoing rules requiring that a company has an independent business and has operational control over its main activities. Controlling shareholders: Retaining a requirement for independence from controlling shareholder via written controlling shareholder agreements and maintaining certain related voting controls. Dual/multiple class share structures: Permitting issuers to have dual/multiple class share structures at admission. Enhanced voting rights only to be held by specified persons (provided they have some involvement or stake in the company at the point of listing²), but without mandated time-based sunset clauses, while retaining voting restrictions against holders of enhanced voting shares on certain matters that have the potential to be economically damaging to ordinary/minority shareholders³, including dilutive transactions, and cancellation of listed of shares. 	UKLR 5 and 6
	Continuing obligations <ul style="list-style-type: none"> Significant transactions: No Prior shareholder vote but enhanced market notifications at ≥25%, removal of the profits test and new guidance on what constitutes 'ordinary course of business'. 	UKLR 7 - 10

¹ Table - FCA Consultation Paper CP23/31, pp 10 -12.

² Page 45/411 FCA Consultation Paper, paragraph 5.36

³ Page 46/411 of FCA Consultation Paper, paragraph 5.42

Listing Category or Topic	Key Features of Proposals	UKLR Chapter
	<ul style="list-style-type: none"> ● Notifications: Enhanced market notifications regime for transactions at $\geq 25\%$, intended to provide key information including financial information, details of any break fee arrangements, the effect of the transaction on the UK listed company including any benefits or risks to the UK listed company, and a statement by the board that the transaction is the best interest of the security holders as a whole⁴. There is no mandate to provide working capital statements or re-stated historical financial information. If the transaction includes an acquisition, historical financial information on the target should be provided. There is also the removal of the mandatory requirement to involve a sponsor to provide guidance on Listing Rules, DTR and MAR where the transaction might be significant⁵. ● Related party transactions: Maintaining a similar approach to CP23/10, with market notification, sponsor fair and reasonable opinion at $\geq 5\%$, and board approval. No prior shareholder approval is required under the commercial companies category⁶. ● Reverse takeovers: Continuing to require an FCA approved circular and prior shareholder approval for transactions $\geq 100\%$ or involving a fundamental change in business. ● Share buy-backs, non pre-emptive discounted share issuances and cancellation: Retained shareholder approval requirements. ● Employee share scheme, long-term incentive plans and discounted options arrangements: Retained shareholder approval requirements, especially where a transaction may dilute their holding⁷. ● Annual reporting: Comply or explain disclosure against the UK Corporate Governance Code (UKCGC), reporting on climate (TCFD) and diversity, and otherwise maintaining most premium listing annual disclosures. Issuers have a continuing obligation to apply premium listing provisions relating to the UKCGC (and DTR), which require a company to include the following additional items in its annual financial report: (i) a statement of how the listed company has applied the UKCGC principles, and (ii) a statement on whether the listed company has complied with the UKCGC throughout its accounting periods, or provides details of instances when it has not⁸. 	

⁴ Page 57/411 of FCA Consultation Paper, paragraph 6.65

⁵ Page 59/411 of FCA Consultation Paper, paragraph 6.73

⁶ Page 71/411 of FCA Consultation Paper, paragraph 9.25

⁷ Page 78/411 of FCA Consultation Paper, paragraph 10.18.

⁸ Page 81/411 of FCA Consultation Paper, paragraph 11.2

Listing Category or Topic	Key Features of Proposals	UKLR Chapter
Sovereign controlled companies	<ul style="list-style-type: none"> Equity shares of sovereign controlled issuers proposed to be included in the commercial companies category subject to targeted alleviations based on current LR21. Certificates representing shares in a sovereign controlled issuer to be included in the category for certificates representing securities (UKLR 15, formerly LR18). 	As above
Transition category (new)	<ul style="list-style-type: none"> Closed category based on current rules for standard listed shares. The continuing obligation under LR 14 continues to apply to the proposed transition category. Certain standard listed issuers 'mapped' here on day 1, proportionate transfer process for issuers wishing to move to the commercial companies category. If a transition category issuer seeks to undertake a reverse takeover, and wishes to retain a UK Listing, the enlarged entity would need to request cancellation and re-apply to list, after completion of the reverse takeover. 	UKLR 22
Closed-ended investment funds (detailed proposals now set out)	<ul style="list-style-type: none"> Based on existing obligations under LR 15. Retention of shareholder votes on material changes to investment policies, management fee changes and certain related party transactions. 	UKLR 11
Open-ended investment companies	<ul style="list-style-type: none"> Retained with only consequential or minor changes to existing requirements. 	UKLR 12
Shell and SPACs category (detailed proposals now set out)	<ul style="list-style-type: none"> Largely maintains current rules for standard listed shares with tailored eligibility and continuing obligations reflecting certain features of current guidance regime for SPACs in LR 5.6. Supplementary requirements based on the existing conditions that enable large SPACs to avoid suspension if they have implemented certain investor protections. For example, shareholder vote required for first transaction. Sponsor required at admission and to support initial transaction (reverse takeover). 	UKLR 13
International secondary listing (new)	<ul style="list-style-type: none"> Designed for non-UK incorporated companies with more than 1 listing where 'primary' listing is on a non-UK market. Replicates standard listing rules with targeted ongoing/continuing provisions tailored to 'secondary' listing. In addition to compliance with LR 14, additional targeted eligibility requirements are proposed, such as, the applicant must not be a UK incorporated company, applicant securities must be capable of being traded on the overseas public market, the applicant's overseas listing must relate to the same class of shares proposed to be listed in the UK⁹. 	UKLR 14

⁹ Page 94/411 of FCA Consultation Paper, paragraph 13.20

Listing Category or Topic	Key Features of Proposals	UKLR Chapter
	<ul style="list-style-type: none"> There are additional continuing obligations that apply to this category aside from those in LR 14, including but not limited to an obligation to comply with the applicable rules of the overseas main market (their primary listing) to which they are subject¹⁰. 	
Non-equity and non-voting equity, and other categories	<ul style="list-style-type: none"> Discrete categories for non-equity shares (including preference and deferred shares) and non-voting equity shares, certificates representing shares (including depository receipts), debt securities, securitised derivatives, and warrants and miscellaneous instruments. This category is open to new applicants, and the sponsor regime does not apply to this category¹¹. 	UKLR 15 - 19
Sponsors	<ul style="list-style-type: none"> Sponsor regime to support commercial companies, SPACs other shell companies, and closed-ended investment funds at application stage and on reverse takeovers. Ongoing role reserved to further issuance listing applications with a prospectus, sponsor fair and reasonable opinions for related party transactions, or where issuers seek guidance, modifications of waivers to FCA rules (including on class tests). Focus on value and benefits of sponsor role for issuers, FCA and wider market, re-calibrating supervisory and compliance expectations. Proposal to allow wider factors to demonstrate sponsor competency and extend lookback for relevant experience from 3 to 5 years (subject to shorter comment period). 	UKLR 4 UKLR 24
Proposals impacting all issuers	<ul style="list-style-type: none"> Revised Listing Principles. New provisions to strengthen our ability to access records and enable us to serve notices to issuers. Retained over-arching listing rule processes and procedures with minor modifications, likewise for cancellations, suspensions and transfers. 	UKLR 1-3+ UKLR 20-21
Listing particulars	<ul style="list-style-type: none"> Retained with only consequential changes. 	UKLR 23

¹⁰ Page 94/411 of FCA Consultation Paper, paragraph 13.24

¹¹ Page 95/411 of FCA Consultation Paper, paragraph 13.29