FCA Publishes New UK Listing Rules

16 July 2024

KEY TAKEAWAYS

On 11 July 2024, the Financial Conduct Authority (the "FCA") published the new and long-awaited UK Listing Rules, which will come into effect on 29 July 2024 and replace the existing Listing Rules.

The new UK Listing Rules represent a significant outcome of Lord Hill's UK Listings Review, launched by the Chancellor in November 2020, which proposed various changes to the UK's listing regime with a view to making the London Stock Exchange (the "LSE") a more attractive listing venue for issuers (see our previous articles here). The new UK Listing Rules offer the flexible and disclosure-based approach the UK government and FCA have sought to bring to the UK public markets regime.

While the new Listing Rules largely follow the proposal set out in Consultation Paper CP 23/31, published on 20 December 2023 (covered by us here), the new Listing Rules also contain a number of important changes, which are discussed below. The full final form Listing Rules, along with feedback from CP 23/31, can be found in Policy Statement PS 24/6.

KEY CHANGES TO THE PROPOSAL IN CP 23/31

Controlling Shareholders and Relationship Agreements

In a departure from the proposal in CP 23/31, issuers falling into the new "equity shares in commercial companies" ("ESCC") category (which replaces the previous premium and standard listing segments, as discussed below) will no longer need to enter into a relationship agreement with any controlling shareholder (*i.e.* shareholders with at least 30% of the voting power of an issuer) in respect of specified independence requirements. Instead, if a controlling shareholder proposes a shareholder resolution, the issuer will need to include an opinion statement of its board of directors in the voting circular if a director considers that the resolution is intended or appears to be intended to circumvent the Listing Rules. In addition, the Listing Rules include amended guidance as to independence of controlling shareholders.

Significant Transaction Disclosures

The final rules relating to "significant transactions" largely implement the changes proposed in CP 23/31—notifications, rather than a shareholder vote, are now required for class 1 transactions (except for reverse takeovers) and transactions that meet any of the class tests equal to or exceeding 25%. The new Listing Rules have streamlined the content of such notifications, and audited financial information of the target (except for disposals) or a fairness statement on the consideration for acquisitions will no longer be required. While disclosure will still need to be made as soon as possible after the terms of a transaction have been agreed and once a transaction is complete, certain information may be delayed until such time as the issuer becomes aware of it post-announcement.

Dual Class Share Structures

The new Listing Rules relating to dual class structures largely remain the same as set out in CP 23/31, with the addition that pre-IPO institutional investors that are not natural persons are now permitted to hold enhanced voting rights, subject to transfer restrictions and a 10-year sunset period. Enhanced voting rights held by specified natural persons will not be subject to the 10-year sunset.

Shell Company Category

Under CP 23/31, it was proposed that shell companies and SPACs would have 24 months to complete a transaction. Under the new Listing Rules, such companies can extend this time limit by 12 months up to three times (a total of 36 months) with shareholder approval, and for a further six months in specified circumstances. Additionally, the FCA notes that larger SPACs will be subject to a guidance-based approach, whereby such SPACs may voluntarily choose to put in place sufficient shareholder protections in order to avoid a presumption of suspension (similar to the existing rules applicable to the standard segment).

Closed-Ended Investment Fund Category

The updated rules relating to significant or related party transactions, as applicable, for listed equity shares in the ESCC will also apply to the Closed-Ended Investment Fund category. Otherwise, the rules relating to Closed-Ended Investment Funds remain the same as set out in CP 23/31.

OVERVIEW OF NEW LISTING RULES (UNCHANGED FROM CP 23/31)

Single Listing Category for Equity Shares

The single listing category to replace the premium and standard listing segments, unchanged from CP 23/31, remains the cornerstone of the new Listing Rules. As a result, issuers with equity shares currently listed on the premium segment will become listed on the ESCC segment, whereas issuers listed on the standard segment of the LSE will now be listed on either a "transition category" or the international secondary listings category, as appropriate. There is also a new listing category for shell companies (as discussed above). Depositary receipts and debt will be listed on separate segments.

Listing Eligibility

The new Listing Rules relating to for listing eligibility for the new ESCC segment remain unchanged from the proposals in CP 23/31: while the minimum 10% free float and market capitalisation of £30 million will continue to apply to listings on the ESCC segment, the three-year audited historical financial information covering 75% of an issuer's business, three-year representative revenue earning track record and "clean" (or unqualified) working capital statement is no longer required.

Sponsor Regime

There has been no change to the proposed sponsor regime set out in CP 23/31, which sets out a streamlined process for sponsors post-IPO in the ESCC segment. Accordingly, the sponsor regime will now be primarily focused on significant increases of an issuer's listed capital requiring an FCA-approved prospectus, reverse takeovers, certain transfers between listing categories and delivering fair and reasonable opinions for related party transactions.

International Secondary Listing Category

Non-UK incorporated companies with a secondary listing in the UK will be listed on the international secondary listing segment, as contemplated by CP 23/31, which will largely track the current standard listing segment requirements.

Related Party Transactions

There is no change to the proposed rules applicable to the ESCC segment relating to related party transactions as proposed in CP 23/31. There is no longer a requirement for shareholder approval, but a transaction announcement must be made. For any related party transactions that meet at least 5% of any of the applicable class tests, issuers must obtain board approval, provide a fair and reasonable sponsor opinion to their shareholders and notify the market.

Independent Business and Control of Business

There is no change to the rules applicable to the ESCC segment relating to maintaining an independent business as proposed in CP 23/31. There is no eligibility requirement or continuing obligations in respect of independence of business, subject to limited exceptions for externally managed companies and controlling shareholders.

COMMENT

The new Listing Rules reflect largely the proposed rules in CP 23/31 and represent the FCA's efforts to implement a more issuer-friendly listing regime, while still maintaining high standards and providing robust protection for investors. The changes made to the proposals set out in CP 23/31 are generally aimed at reducing the requirements applicable to issuers. In addition, the LSE has now clarified that issuers listed on the new single segment (along with the Closed Ended Investment Fund category) will be eligible for inclusion in the FTSE UK Index Series, which should enhance the attractiveness of the LSE as a listing venue. The FCA will formally review the new Listing Rules regime in five years to assess its impact.

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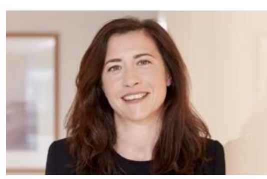
Please do not hesitate to contact us with any questions.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