



CFA UK is a member society of



Victoria Richardson
Primary Markets Policy
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

26th April 2012

Dear Ms Richardson,

The Chartered Financial Analyst Society of the UK (CFA UK) welcomes the opportunity to respond to the Amendments to the Listings Rules (CP12/02). CFA UK's response has been drafted by the Professional Standards and Market Practices Committee (PSMPC) and has not surveyed its members.

About CFA UK and CFA Institute

The CFA Society of the UK (CFA UK) serves society's best interests through the provision of education and training, the promotion of high professional and ethical standards and by informing policy-makers and the public about the investment profession.

The society supports the CFA Program® and is the awarding body for the Investment Management Certificate (IMC), the UK's leading entry level qualification for investment professionals.

Founded in 1955, CFA UK represents the interests of roughly 10,000 investment professionals. CFA UK is part of the worldwide network of member societies of CFA Institute (the global, not-for-profit association of investment professionals that awards the CFA and CIPM designations) and is the largest society outside North America.

The aim of CFA UK's advocacy initiative is to work with policy-makers, regulators and standard-setters to promote fair and efficient markets, high standards in financial reporting and ethical standards across the investment profession. The society is committed to providing members with information regarding proposed regulatory and accounting standards changes and bases its responses on feedback direct from members or relevant committees.

Response to the consultation

CFA UK welcomes the FSA consultation paper which sets out proposals for changes to the Listing Rules to ensure that they reflect properly recent changes in market practices and so allow the UK Listing Authority (UKLA) to meet its objectives of:

- providing an appropriate degree of protection for investors in listed securities;
- facilitating access to listed markets for a broad range of enterprises; and
- seeking to maintain the integrity and competitiveness of UK markets for listed securities.

We also welcome the FSA's emphasis on ensuring that parties that are affected by the Listings Regime are aware of their responsibilities and obligations and how these contribute to meeting the objectives set out above. CFA UK has responded to previous reviews of the Regime since 2000¹.

Listing Regime

As we stated in our 2008 response, we are in favour of super-equivalence as we believe that this helps to promote the "brand" of a London listing, the avoidance of fragmentation of standards and the avoidance of conflict of interests. In addition, overseas companies seeking a Premium Listing by whichever means should abide by the standards set for that type of Listing. Similarly, the regulator should be aware of practices that may try to exploit any opportunities for regulatory arbitrage. We welcome amendments that will ensure that "brand" of a London listing is maintained and where possible enhanced.

The "comply or explain" regime of corporate governance regime which currently applies for UK listed companies, cannot work effectively in the absence of a Listing requirement which demands it, so that all participants either comply with the rules or explain why they have not. It is equally important that those to whom explanations are given have some power to take action if they do not accept the explanations of non-compliance. The Code requires effective supervision and enforcement. We hope that the differences in how the Code and the Listings Regime are supervised and enforced do not create potential inconsistencies or regulatory gaps in the future and undermine the integrity of the Listings Regime and so compromise the achievement of its objectives.

Reverse Takeovers

The FSA's recognition that the reverse takeover regime requires some changes to address the issue of "back door" listing is welcome and that the related changes to achieve this aim is also supported. However, the FSA will need to ensure that the revisions to its definition of a reverse takeover does not create opportunities for activities that at present can be considered as a "back door" listing. We would support the FSA's approach to focus on the substance rather than legal form of the takeover and this would be considered a progressive step. It would be useful for the FSA to provide some examples of how this approach would be applied and how the outcome would differ between a reverse takeover under the current regime and a reverse takeover should the new proposals be implemented.

Sponsors

Sponsors, in the majority of cases are regulated firms and so have to abide by the relevant requirements set out by the related laws and regulations. However, it does raise a concern that the FSA's consultation indicates that there may be some misalignment between firms' responsibilities as regulated entities and their responsibilities as sponsors. Perhaps the FSA can be more proactive in ensuring that the sponsors' responsibilities are carried out in a manner that is not inconsistent with being UK regulated entities. The consultations in Paras 3.25 and 3.26 are insightful -

"We have identified an anomaly in the rules in that this Principle (PRIN2.1) does not fully articulate our expectations of sponsors while carrying out sponsor services. Therefore we

¹ Structure of the Listings Regime (2008)

https://secure.cfauk.org/assets/1395/CFA_UK_response_on_the_listing_regime_April_2008.pdf

FSA (CP 203): Review of the Listing Regime

https://secure.cfauk.org/assets/1395/UKSIP_response_on_the_listing_regime_January_2004.pdf

propose to insert a further Principle for Sponsors in LR 8.3.5BR that will require sponsors to act with honesty and integrity in relation to a sponsor service."

"The Principle of Integrity already applies to all authorised persons under PRIN2.1. We believe that our proposal, which will apply in relation to the provision of sponsor services (and not at all times), will not impose an additional burden for the vast majority of sponsors who already operate to these standards. However, given the position of trust held by the sponsor, we believe it is appropriate and proportionate that this Principle should apply in connection with the provision of sponsor services. Furthermore, where standards fall below those expected, we will be in a better position to take appropriate action against a sponsor."

CFA UK welcomes the FSA's awareness that in instances where sponsors have fallen short of their responsibilities, the regulator seeks to ensure that it can take action and by doing so would contribute to enhancing market integrity. It is also welcome that the FSA is now calling upon sponsors to honour their responsibilities as regulated entities. Regardless of whether it is a Primary or Standard Listing, the responsibilities of regulated firms should not be materially different from that required of sponsors; meeting such standards are integral for the integrity of the UK market. Similarly, provisions in the Listing Regime should not allow such differences to arise.

CFA UK welcomes the four key changes set out in the consultation and would seek reassurance that the gap identified by the FSA will limit the ability for firms to operate in a manner that is consistent with their duties as regulated firms and as sponsors. In all cases the higher standard should prevail. We would welcome further evidence as to how the FSA or its replacement will monitor and enforce these new provisions so that firms willing to take regulatory risks do not use their role as a sponsor as a regulatory shield.

Issuers

CFA UK appreciates that the FSA is learning from its experiences and making it clear to issuers and applicants (of rlisting) that they should not impede sponsors in meeting their obligations to the regulator. However, it will be equally important for the regulator to demonstrate it will act decisively when issuers and applicants impede sponsors in the future.

Financial Information

Investors rely on information to make an informed choice and measures that can contribute to this is welcome. Moreover, the quality of information provided is just as important as the quantity of information made available for Listing purposes. The regulator's intent to ensure that participants are clear on the requirements and will be able to have additional support where the rules may be "silent" should be supported.

Transactions

In chapter 4 we can appreciate that the measures being introduced are to align with current appropriate market practices while ensuring that the balance between issuer and shareholder is achieved. We also support the approach applied to break fees whereby the emphasis will be on the substance rather than the legal form of the arrangement that will matter.

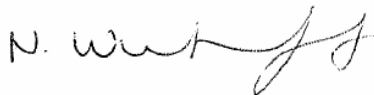
Externally Managed Companies

CFA UK welcomes the FSA's approach to Externally Managed Companies especially as it may be considered a proactive initiative. We would agree with the regulator that any listing by such companies that do not meet the high standards of a Premium Listing should not be considered so and should be given a Standard Listing. In this way market participants are clear that such entities do not adhere to the standards required for a Premium Listing and can then regard these companies accordingly.

CFA UK would support proposals that would enhance the accountability of externally managed companies so that there is little material difference between these entities and other entities that share the same type of listing.

We hope that the content of this response is helpful and we would welcome the opportunity to discuss or develop any of the points raised in this submission.

Yours,



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