

On 26 October 2017, the FCA published a [Policy Statement \(PS 17/22\)](#) relating to its consultation paper (CP 17/4): [Review of the Effectiveness of Primary Markets: Enhancements to the Listing Regime \(March 2017\)](#) and corresponding new and amended Listing Rules (LRs) which take effect on 1 January 2018.

New Listing Rules

In CP 17/4, the FCA proposed various technical amendments to the LRs as part of its broader work on enhancing the overall Listing Regime. Click [here](#) to read our article for background on the consultation.

In PS 17/22, the FCA provides an overview of the feedback received during consultation and notes that, overall, its proposals were well received. Consequently, the FCA announces that it is proceeding with its proposals to:

- amend LR 6 in order to clarify and re-structure the presentation of the existing eligibility requirements for premium-listed commercial companies. Subject to some minor amendments, the FCA will also proceed with publishing its new Technical Note, *UKLA/TN/103.1 "The independent business requirements for companies applying for premium listing – interpretation of LR 6.4, LR 6.5 and LR 6.6"* which provides further guidance on the interpretation of the independence requirements and sets out examples of what might be seen as 'improper influence';
- introduce a new concessionary route to a premium listing for property companies that may not be able to meet the three year track record requirements but whose maturity may be demonstrated in other ways (for example, by evidencing the value of their business by publishing a valuation report). Additionally, the FCA is proceeding to replace the existing guidance for a new Technical Note on *"Scientific research based companies"* (UKLA/TN/422.3) and introduce a new Technical Note on *"Mineral Companies"* (UKLA/TN/427.1) to help interpret the requirements relating to the two current concessionary routes. The FCA will also proceed with its new technical note on the concessionary route: *"Property companies (UKLA/TN/426.1)"* to provide guidance in respect of the new requirements. The new technical guidance remains unchanged from the consultation drafts;
- amend the rules on the classification of transactions by premium-listed issuers. The amendments have the effect of allowing issuers to treat certain transactions as unclassified (without requiring prior consultation with the FCA) where the profits test result is 25% or more but is anomalous - and the results of all other applicable class tests are below 5%. The new rules also allow premium listed



Contacts

[Daniel Simons](#)

Partner

[Richard Ufland](#)

Partner

[Danette Antao](#)

Senior Professional Support Lawyer

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issuers, having sought guidance from a sponsor, to be able to adjust their calculations of the profits test if the transaction's classification would otherwise be anomalous, without having to consult with the FCA. In its Policy Statement, the FCA notes that, at this stage, it will not be producing guidance on what is an "anomalous" result, as it believes that sponsors are familiar with making such judgements - but it will monitor whether there is any future need for such guidance. Additionally, the FCA is proceeding to publish its revised Technical Note: "*Classification tests*" (UKLA/TN/302.2) in the form proposed during consultation; and

- amend guidance in the case of a reverse takeover in order to remove the presumption that, where a reverse takeover is in contemplation, there will be insufficient information in the market about the target unless the listed company can provide it. Instead, the FCA will assume that the market can operate smoothly on the basis of the information that listed companies already make publicly available as part of their compliance with existing obligations, principally their obligation to disclose inside information under the Market Abuse Regulation. The proposal to remove the presumption of suspension for reverse takeovers and its related obligations will extend to all issuers with a premium or standard listing of securities - but not to shell companies. In response to a suggestion that an alternative to retaining the presumption of suspension for shell companies could be to require them to put acquisitions to a shareholder vote before they can proceed to completion, the FCA notes that it will consider this as part of its broader work around repositioning the standard segment as proposed in DP 17/2. In order to reflect this change, the FCA will delete its Technical Note on "*Reverse takeovers*" (UKLA/TN/306.2) and proceed with its amended Technical Notes on "*Listing Principle 2 Dealing with the FCA in an open and cooperative manner*" (UKLA/TN/209.2)" and "*Cash shells and special purpose acquisition vehicles (SPACs)*" (UKLA/TN/420.1).

When will the new rules and guidance apply?

The new rules and technical guidance will apply from 1 January 2018. The FCA notes that companies seeking admission of securities to premium listing after this date should prepare any submission regarding their eligibility in accordance with the new requirements.

If you have any queries on PS 17/22, please contact your usual contact at Hogan Lovells or one of the listed contacts.