

Listing regime reforms: attracting tech companies

On 26 May 2022, the Financial Conduct Authority (FCA) published a new discussion paper (DP 22/2) (discussion paper) seeking views on how to further reform the UK listing regime and related Listing Rules. The aim of the proposed measures is to broaden access to listing and make the UK listing regime simpler to understand, while still maintaining high standards of disclosure.

Among other potential reforms, the FCA is consulting on the merging of the existing standard and premium segments of the London Stock Exchange's (LSE) Main Market to form a new single listing segment for equity shares of commercial companies. The discussion paper is open to public consultation until 28 July 2022. The FCA will then provide feedback and consider whether to issue a further consultation paper before it makes any formal proposals.

Background to the proposals

The discussion paper follows on from Lord Hill's UK Listing Review and the related FCA Listing Review consultation paper CP 21/21, which have already resulted in an easing of rules relating to special purpose acquisition company (SPAC) listings, targeted changes to the Listing Rules for dual class share structures in the premium listing segment and a reduction in the required "free float" level of shares in public hands (see *News briefs "UK Listing Review: closing a gap"*, www.practicallaw.com/w-030-2530 and *"SPACs in the UK: starting a new chapter?"*, www.practicallaw.com/w-032-3672).

The discussion paper focuses on the fourth of Lord Hill's recommendations, namely a rebranding and remarketing of the existing standard listing segment.

Merging standard and premium segments

The discussion paper considers whether merging the premium and standard segments of the LSE's Main Market into a new single segment could simplify entry and make it a more attractive market for companies looking to list. The new single segment could have the following features.

Single set of eligibility requirements. All listed companies would need to meet a single set of criteria that are broadly based on the current premium segment eligibility

Continuing obligations

Single segment continuing obligations	
Mandatory obligations	Supplementary obligations
<ul style="list-style-type: none">• Related party transaction requirements.• Shareholder approval for delisting.• Pre-emption rights.• Rules governing open offers and rights issues, including the 10% discount limit.	<ul style="list-style-type: none">• The significant transactions regime.• The controlling shareholder regime.• The independent business requirement.

requirements, save for certain amendments to the financial eligibility criteria (see below).

The FCA suggests that imposing universal eligibility requirements may avoid a quality differential between different issuers. This quality differential has contributed towards standard segment issuers being frequently perceived as a lower quality by the investor community.

Two sets of continuing obligations. All UK listing companies would be subject to the same minimum standard of mandatory continuing obligations. There would also be a further set of supplementary, enhanced obligations that companies can elect to adopt. Issuers would determine and disclose at the point of listing whether the supplementary continuing obligations are suitable for them, having regard to the nature of their business and the needs of their shareholders. Once listed, a company would be required to obtain shareholder approval to either opt in or out of the supplementary regime.

The discussion paper contemplates that the mandatory continuing obligations would include those requirements that currently apply to premium-listed issuers and that focus on transparency and the protection of shareholders. The others that would fall within the supplementary regime would be those existing requirements that provide an enhanced role for shareholders in holding the company to account on an ongoing basis (see box "Continuing obligations").

Removal of financial eligibility requirements. The FCA is contemplating replacing the existing financial eligibility requirements, which comprise:

- A three-year representative revenue earning track record.
- Three years of audited historical financial information that represents at least 75% of the issuer's business.
- A clean or unqualified working capital statement.

Recognising that these requirements are important to many investors, these mandatory requirements would be replaced with a new regime based on disclosures, allowing investors to decide whether to invest based on disclosures contained in the issuer's prospectus.

Unified sponsor regime. At present, only issuers listing on the premium segment are required to appoint a sponsor. The FCA is considering whether, as part of the single segment, all listed companies in the new segment would require a sponsor. The FCA considers that this may further avoid any perceived "quality" differential between issuers. The FCA notes that, while the proposal is to expand the requirement for a sponsor, in practice, the extent to which a sponsor is required after initial listing may in fact be reduced depending on the ultimate design of the single segment. For example,

if the threshold for requiring shareholder approval for a significant transaction is increased, there would be fewer transactions that require a sponsor.

Transitional arrangements. The discussion paper proposes transitional arrangements to allow existing standard listed companies to maintain their listing in the standard listing segment but provide them with the option to undergo an eligibility assessment to move to the single segment. The FCA's analysis suggests that these transitional arrangements may apply to around 30 existing issuers that would theoretically be eligible for the single segment.

Index inclusion

One of the current criticisms of the standard segment, alongside the general negative perception of issuers listed on it, is that standard segment issuers are not currently eligible for inclusion in indexes.

The FCA acknowledges that the contemplated changes to the listing segments may not address this issue as it does not set the criteria for indices and that indices may well elect to amend their criteria for inclusion following any changes to the listing regime; for example, by specifying that adherence to both the mandatory and supplementary continuing obligations is required for inclusion or

potentially by imposing other relevant criteria. Indeed, it seems likely that something along these lines would ensue, meaning that the perceived quality differential that currently exists between premium and standard listed companies would remain. This has led commentators to criticise the FCA for seeking to replace the existing two-tier system with another, and consequently failing to achieve the stated aim of simplifying the listing regime.

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The discussion paper is at www.fca.org.uk/publication/discussion/dp22-2.pdf.
